

fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

(2) Minimum allotment

The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

(A) \$50,000 for fiscal year 1997 or 1998; or

(B) \$100,000 for any succeeding fiscal year.

(d) No supplantation of State expenditures for similar activities

A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a) of this section, but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

(e) State administration

Each State to which a grant is made under this section—

(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;

(2) shall not be required to operate such programs on a statewide basis; and

(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.

(Aug. 14, 1935, ch. 531, title IV, § 469B, as added Pub. L. 104-193, title III, § 391, Aug. 22, 1996, 110 Stat. 2258.)

EFFECTIVE DATE

For effective date of section, see section 395(a)-(c) of Pub. L. 104-193, set out as an Effective Date of 1996 Amendment note under section 654 of this title.

PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

§ 670. Congressional declaration of purpose; authorization of appropriations

For the purpose of enabling each State to provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would have been eligible for assistance under the State's plan approved under part A of this subchapter (as such plan was in effect on June 1, 1995) and adoption assistance for children with special needs, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

(Aug. 14, 1935, ch. 531, title IV, § 470, as added Pub. L. 96-272, title I, § 101(a)(1), June 17, 1980, 94 Stat. 501; amended Pub. L. 99-272, title XII, § 12307(d), Apr. 7, 1986, 100 Stat. 297; Pub. L. 99-514, title XVII, § 1711(c)(1), Oct. 22, 1986, 100 Stat. 2784; Pub. L. 104-193, title I, § 108(d)(1), Aug. 22, 1996, 110 Stat. 2166.)

AMENDMENTS

1996—Pub. L. 104-193 substituted “would have been eligible” for “would be eligible” and inserted “(as such plan was in effect on June 1, 1995)” after “part A of this subchapter”.

1986—Pub. L. 99-514 substituted “foster care and transitional independent living programs for children who otherwise would be eligible for assistance under the State's plan approved under part A of this subchapter and adoption assistance for children with special needs” for “foster care, adoption assistance, and transitional independent living programs for children who otherwise would be eligible for assistance under the State's plan approved under part A of this subchapter (or, in the case of adoption assistance, would be eligible for benefits under subchapter XVI of this chapter)”.

Pub. L. 99-272 substituted “foster care, adoption assistance, and transitional independent living programs” for “foster care and adoption assistance”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1711(d) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section and sections 671, 673, and 675 of this title] shall apply only with respect to expenditures made after December 31, 1986.”

STRENGTHENING ABUSE AND NEGLECT COURTS

Pub. L. 106-314, Oct. 17, 2000, 114 Stat. 1266, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Strengthening Abuse and Neglect Courts Act of 2000’.

“SEC. 2. FINDINGS.

“Congress finds the following:

“(1) Under both Federal and State law, the courts play a crucial and essential role in the Nation's child welfare system and in ensuring safety, stability, and permanence for abused and neglected children under the supervision of that system.

“(2) The Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115) [see Short Title of 1997 Amendment note set out under section 1305 of this title] establishes explicitly for the first time in Federal law that a child's health and safety must be the paramount consideration when any decision is made regarding a child in the Nation's child welfare system.

“(3) The Adoption and Safe Families Act of 1997 promotes stability and permanence for abused and neglected children by requiring timely decision-making in proceedings to determine whether children can safely return to their families or whether they should be moved into safe and stable adoptive homes or other permanent family arrangements outside the foster care system.

“(4) To avoid unnecessary and lengthy stays in the foster care system, the Adoption and Safe Families Act of 1997 specifically requires, among other things, that States move to terminate the parental rights of the parents of those children who have been in foster care for 15 of the last 22 months.

“(5) While essential to protect children and to carry out the general purposes of the Adoption and Safe

Families Act of 1997, the accelerated timelines for the termination of parental rights and the other requirements imposed under that Act increase the pressure on the Nation's already overburdened abuse and neglect courts.

“(6) The administrative efficiency and effectiveness of the Nation's abuse and neglect courts would be substantially improved by the acquisition and implementation of computerized case-tracking systems to identify and eliminate existing backlogs, to move abuse and neglect caseloads forward in a timely manner, and to move children into safe and stable families. Such systems could also be used to evaluate the effectiveness of such courts in meeting the purposes of the amendments made by, and provisions of, the Adoption and Safe Families Act of 1997.

“(7) The administrative efficiency and effectiveness of the Nation's abuse and neglect courts would also be improved by the identification and implementation of projects designed to eliminate the backlog of abuse and neglect cases, including the temporary hiring of additional judges, extension of court hours, and other projects designed to reduce existing caseloads.

“(8) The administrative efficiency and effectiveness of the Nation's abuse and neglect courts would be further strengthened by improving the quality and availability of training for judges, court personnel, agency attorneys, guardians ad litem, volunteers who participate in court-appointed special advocate (CASA) programs, and attorneys who represent the children and the parents of children in abuse and neglect proceedings.

“(9) While recognizing that abuse and neglect courts in this country are already committed to the quality administration of justice, the performance of such courts would be even further enhanced by the development of models and educational opportunities that reinforce court projects that have already been developed, including models for case-flow procedures, case management, representation of children, automated interagency interfaces, and ‘best practices’ standards.

“(10) Judges, magistrates, commissioners, and other judicial officers play a central and vital role in ensuring that proceedings in our Nation's abuse and neglect courts are run efficiently and effectively. The performance of those individuals in such courts can only be further enhanced by training, seminars, and an ongoing opportunity to exchange ideas with their peers.

“(11) Volunteers who participate in court-appointed special advocate (CASA) programs play a vital role as the eyes and ears of abuse and neglect courts in proceedings conducted by, or under the supervision of, such courts and also bring increased public scrutiny of the abuse and neglect court system. The Nation's abuse and neglect courts would benefit from an expansion of this program to currently underserved communities.

“(12) Improved computerized case-tracking systems, comprehensive training, and development of, and education on, model abuse and neglect court systems, particularly with respect to underserved areas, would significantly further the purposes of the Adoption and Safe Families Act of 1997 by reducing the average length of an abused and neglected child's stay in foster care, improving the quality of decision-making and court services provided to children and families, and increasing the number of adoptions.

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) ABUSE AND NEGLECT COURTS.—The term ‘abuse and neglect courts’ means the State and local courts that carry out State or local laws requiring proceedings (conducted by or under the supervision of the courts)—

“(A) that implement part B and part E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.) (including preliminary disposition of such proceedings);

“(B) that determine whether a child was abused or neglected;

“(C) that determine the advisability or appropriateness of placement in a family foster home, group home, or a special residential care facility; or

“(D) that determine any other legal disposition of a child in the abuse and neglect court system.

“(2) AGENCY ATTORNEY.—The term ‘agency attorney’ means an attorney or other individual, including any government attorney, district attorney, attorney general, State attorney, county attorney, city solicitor or attorney, corporation counsel, or privately retained special prosecutor, who represents the State or local agency administering the programs under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.) in a proceeding conducted by, or under the supervision of, an abuse and neglect court, including a proceeding for termination of parental rights.

“SEC. 4. GRANTS TO STATE COURTS AND LOCAL COURTS TO AUTOMATE THE DATA COLLECTION AND TRACKING OF PROCEEDINGS IN ABUSE AND NEGLECT COURTS.

“(a) AUTHORITY TO AWARD GRANTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Attorney General, acting through the Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs, shall award grants in accordance with this section to State courts and local courts for the purposes of—

“(A) enabling such courts to develop and implement automated data collection and case-tracking systems for proceedings conducted by, or under the supervision of, an abuse and neglect court;

“(B) encouraging the replication of such systems in abuse and neglect courts in other jurisdictions; and

“(C) requiring the use of such systems to evaluate a court's performance in implementing the requirements of parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.).

“(2) LIMITATIONS.—

“(A) NUMBER OF GRANTS.—Not less than 20 nor more than 50 grants may be awarded under this section.

“(B) PER STATE LIMITATION.—Not more than 2 grants authorized under this section may be awarded per State.

“(C) USE OF GRANTS.—Funds provided under a grant made under this section may only be used for the purpose of developing, implementing, or enhancing automated data collection and case-tracking systems for proceedings conducted by, or under the supervision of, an abuse and neglect court.

“(b) APPLICATION.—

“(1) IN GENERAL.—A State court or local court may submit an application for a grant authorized under this section at such time and in such manner as the Attorney General may determine.

“(2) INFORMATION REQUIRED.—An application for a grant authorized under this section shall contain the following:

“(A) A description of a proposed plan for the development, implementation, and maintenance of an automated data collection and case-tracking system for proceedings conducted by, or under the supervision of, an abuse and neglect court, including a proposed budget for the plan and a request for a specific funding amount.

“(B) A description of the extent to which such plan and system are able to be replicated in abuse and neglect courts of other jurisdictions that specifies the common case-tracking data elements of the proposed system, including, at a minimum—

“(i) identification of relevant judges, court, and agency personnel;

“(ii) records of all court proceedings with regard to the abuse and neglect case, including all court findings and orders (oral and written); and

“(iii) relevant information about the subject child, including family information and the reason for court supervision.

“(C) In the case of an application submitted by a local court, a description of how the plan to implement the proposed system was developed in consultation with related State courts, particularly with regard to a State court improvement plan funded under section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) [now 42 U.S.C. 629h] if there is such a plan in the State.

“(D) In the case of an application that is submitted by a State court, a description of how the proposed system will integrate with a State court improvement plan funded under section 13712 of such Act if there is such a plan in the State.

“(E) After consultation with the State agency responsible for the administration of parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.)—

“(i) a description of the coordination of the proposed system with other child welfare data collection systems, including the statewide automated child welfare information system (SACWIS) and the adoption and foster care analysis and reporting system (AFCARS) established pursuant to section 479 of the Social Security Act (42 U.S.C. 679); and

“(ii) an assurance that such coordination will be implemented and maintained.

“(F) Identification of an independent third party that will conduct ongoing evaluations of the feasibility and implementation of the plan and system and a description of the plan for conducting such evaluations.

“(G) A description or identification of a proposed funding source for completion of the plan (if applicable) and maintenance of the system after the conclusion of the period for which the grant is to be awarded.

“(H) An assurance that any contract entered into between the State court or local court and any other entity that is to provide services for the development, implementation, or maintenance of the system under the proposed plan will require the entity to agree to allow for replication of the services provided, the plan, and the system, and to refrain from asserting any proprietary interest in such services for purposes of allowing the plan and system to be replicated in another jurisdiction.

“(I) An assurance that the system established under the plan will provide data that allows for evaluation (at least on an annual basis) of the following information:

“(i) The total number of cases that are filed in the abuse and neglect court.

“(ii) The number of cases assigned to each judge who presides over the abuse and neglect court.

“(iii) The average length of stay of children in foster care.

“(iv) With respect to each child under the jurisdiction of the court—

“(I) the number of episodes of placement in foster care;

“(II) the number of days placed in foster care and the type of placement (foster family home, group home, or special residential care facility);

“(III) the number of days of in-home supervision; and

“(IV) the number of separate foster care placements.

“(v) The number of adoptions, guardianships, or other permanent dispositions finalized.

“(vi) The number of terminations of parental rights.

“(vii) The number of child abuse and neglect proceedings closed that had been pending for 2 or more years.

“(viii) With respect to each proceeding conducted by, or under the supervision of, an abuse and neglect court—

“(I) the timeliness of each stage of the proceeding from initial filing through legal finalization of a permanency plan (for both contested and uncontested hearings);

“(II) the number of adjournments, delays, and continuances occurring during the proceeding, including identification of the party requesting each adjournment, delay, or continuance and the reasons given for the request;

“(III) the number of courts that conduct or supervise the proceeding for the duration of the abuse and neglect case;

“(IV) the number of judges assigned to the proceeding for the duration of the abuse and neglect case; and

“(V) the number of agency attorneys, children’s attorneys, parent’s attorneys, guardians ad litem, and volunteers participating in a court-appointed special advocate (CASA) program assigned to the proceeding during the duration of the abuse and neglect case.

“(J) A description of how the proposed system will reduce the need for paper files and ensure prompt action so that cases are appropriately listed with national and regional adoption exchanges, and public and private adoption services.

“(K) An assurance that the data collected in accordance with subparagraph (I) will be made available to relevant Federal, State, and local government agencies and to the public.

“(L) An assurance that the proposed system is consistent with other civil and criminal information requirements of the Federal Government.

“(M) An assurance that the proposed system will provide notice of timeframes required under the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115) for individual cases to ensure prompt attention and compliance with such requirements.

“(c) CONDITIONS FOR APPROVAL OF APPLICATIONS.—

“(1) MATCHING REQUIREMENT.—

“(A) IN GENERAL.—A State court or local court awarded a grant under this section shall expend \$1 for every \$3 awarded under the grant to carry out the development, implementation, and maintenance of the automated data collection and case-tracking system under the proposed plan.

“(B) WAIVER FOR HARDSHIP.—The Attorney General may waive or modify the matching requirement described in subparagraph (A) in the case of any State court or local court that the Attorney General determines would suffer undue hardship as a result of being subject to the requirement.

“(C) NON-FEDERAL EXPENDITURES.—

“(i) CASH OR IN KIND.—State court or local court expenditures required under subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

“(ii) NO CREDIT FOR PRE-AWARD EXPENDITURES.—Only State court or local court expenditures made after a grant has been awarded under this section may be counted for purposes of determining whether the State court or local court has satisfied the matching expenditure requirement under subparagraph (A).

“(2) NOTIFICATION TO STATE OR APPROPRIATE CHILD WELFARE AGENCY.—No application for a grant authorized under this section may be approved unless the State court or local court submitting the application demonstrates to the satisfaction of the Attorney General that the court has provided the State, in the case of a State court, or the appropriate child welfare agency, in the case of a local court, with notice of the contents and submission of the application.

“(3) CONSIDERATIONS.—In evaluating an application for a grant under this section the Attorney General shall consider the following:

“(A) The extent to which the system proposed in the application may be replicated in other jurisdictions.

“(B) The extent to which the proposed system is consistent with the provisions of, and amendments made by, the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115), and parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq.; 670 et seq.).

“(C) The extent to which the proposed system is feasible and likely to achieve the purposes described in subsection (a)(1).

“(4) DIVERSITY OF AWARDS.—The Attorney General shall award grants under this section in a manner that results in a reasonable balance among grants awarded to State courts and grants awarded to local courts, grants awarded to courts located in urban areas and courts located in rural areas, and grants awarded in diverse geographical locations.

“(d) LENGTH OF AWARDS.—No grant may be awarded under this section for a period of more than 5 years.

“(e) AVAILABILITY OF FUNDS.—Funds provided to a State court or local court under a grant awarded under this section shall remain available until expended without fiscal year limitation.

“(f) REPORTS.—

“(1) ANNUAL REPORT FROM GRANTEEES.—Each State court or local court that is awarded a grant under this section shall submit an annual report to the Attorney General that contains—

“(A) a description of the ongoing results of the independent evaluation of the plan for, and implementation of, the automated data collection and case-tracking system funded under the grant; and

“(B) the information described in subsection (b)(2)(I).

“(2) INTERIM AND FINAL REPORTS FROM ATTORNEY GENERAL.—

“(A) INTERIM REPORTS.—Beginning 2 years after the date of enactment of this Act [Oct. 17, 2000], and biannually thereafter until a final report is submitted in accordance with subparagraph (B), the Attorney General shall submit to Congress interim reports on the grants made under this section.

“(B) FINAL REPORT.—Not later than 90 days after the termination of all grants awarded under this section, the Attorney General shall submit to Congress a final report evaluating the automated data collection and case-tracking systems funded under such grants and identifying successful models of such systems that are suitable for replication in other jurisdictions. The Attorney General shall ensure that a copy of such final report is transmitted to the highest State court in each State.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$10,000,000 for the period of fiscal years 2001 through 2005.

“SEC. 5. GRANTS TO REDUCE PENDING BACKLOGS OF ABUSE AND NEGLECT CASES TO PROMOTE PERMANENCY FOR ABUSED AND NEGLECTED CHILDREN.

“(a) AUTHORITY TO AWARD GRANTS.—The Attorney General, acting through the Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs and in collaboration with the Secretary of Health and Human Services, shall award grants in accordance with this section to State courts and local courts for the purposes of—

“(1) promoting the permanency goals established in the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2115); and

“(2) enabling such courts to reduce existing backlogs of cases pending in abuse and neglect courts, especially with respect to cases to terminate parental rights and cases in which parental rights to a child have been terminated but an adoption of the child has not yet been finalized.

“(b) APPLICATION.—A State court or local court shall submit an application for a grant under this section, in such form and manner as the Attorney General shall require, that contains a description of the following:

“(1) The barriers to achieving the permanency goals established in the Adoption and Safe Families Act of 1997 that have been identified.

“(2) The size and nature of the backlogs of children awaiting termination of parental rights or finalization of adoption.

“(3) The strategies the State court or local court proposes to use to reduce such backlogs and the plan and timetable for doing so.

“(4) How the grant funds requested will be used to assist the implementation of the strategies described in paragraph (3).

“(c) USE OF FUNDS.—Funds provided under a grant awarded under this section may be used for any purpose that the Attorney General determines is likely to successfully achieve the purposes described in subsection (a), including temporarily—

“(1) establishing night court sessions for abuse and neglect courts;

“(2) hiring additional judges, magistrates, commissioners, hearing officers, referees, special masters, and other judicial personnel for such courts;

“(3) hiring personnel such as clerks, administrative support staff, case managers, mediators, and attorneys for such courts; or

“(4) extending the operating hours of such courts.

“(d) NUMBER OF GRANTS.—Not less than 15 nor more than 20 grants shall be awarded under this section.

“(e) AVAILABILITY OF FUNDS.—Funds awarded under a grant made under this section shall remain available for expenditure by a grantee for a period not to exceed 3 years from the date of the grant award.

“(f) REPORT ON USE OF FUNDS.—Not later than the date that is halfway through the period for which a grant is awarded under this section, and 90 days after the end of such period, a State court or local court awarded a grant under this section shall submit a report to the Attorney General that includes the following:

“(1) The barriers to the permanency goals established in the Adoption and Safe Families Act of 1997 that are or have been addressed with grant funds.

“(2) The nature of the backlogs of children that were pursued with grant funds.

“(3) The specific strategies used to reduce such backlogs.

“(4) The progress that has been made in reducing such backlogs, including the number of children in such backlogs—

“(A) whose parental rights have been terminated; and

“(B) whose adoptions have been finalized.

“(5) Any additional information that the Attorney General determines would assist jurisdictions in achieving the permanency goals established in the Adoption and Safe Families Act of 1997.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the period of fiscal years 2001 and 2002 \$10,000,000 for the purpose of making grants under this section.

“SEC. 6. GRANTS TO EXPAND THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM IN UNDERSERVED AREAS.

“(a) GRANTS TO EXPAND CASA PROGRAMS IN UNDERSERVED AREAS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall make a grant to the National Court-Appointed Special Advocate Association for the purposes of—

“(1) expanding the recruitment of, and building the capacity of, court-appointed special advocate programs located in the 15 largest urban areas;

“(2) developing regional, multijurisdictional court-appointed special advocate programs serving rural areas; and

“(3) providing training and supervision of volunteers in court-appointed special advocate programs.

“(b) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—Not more than 5 percent of the grant made under this

subsection may be used for administrative expenditures.

“(c) DETERMINATION OF URBAN AND RURAL AREAS.—For purposes of administering the grant authorized under this subsection, the Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall determine whether an area is one of the 15 largest urban areas or a rural area in accordance with the practices of, and statistical information compiled by, the Bureau of the Census.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to make the grant authorized under this section, \$5,000,000 for the period of fiscal years 2001 and 2002.”

ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION

Pub. L. 103-66, title XIII, §13712, Aug. 10, 1993, 107 Stat. 655, as amended by Pub. L. 105-89, title III, §305(a)(3), Nov. 19, 1997, 111 Stat. 2130; Pub. L. 107-133, title I, §107(a)-(d), Jan. 17, 2002, 115 Stat. 2418, which was formerly set out as a note under this section, was renumbered section 438 of the Social Security Act by Pub. L. 107-133, title I, §107(e), Jan. 17, 2002, 115 Stat. 2419, and is classified to section 629h of this title.

ABANDONED INFANTS ASSISTANCE

Pub. L. 100-505, Oct. 18, 1988, 102 Stat. 2533, as amended by Pub. L. 102-236, §§2-8, Dec. 12, 1991, 105 Stat. 1812-1816; Pub. L. 104-235, title II, §§221, 222, Oct. 3, 1996, 110 Stat. 3091, 3092; Pub. L. 108-36, title III, §§301-305, June 25, 2003, 117 Stat. 822-824, known as the Abandoned Infants Assistance Act of 1988, and formerly set out as a note under this section, provided temporary authority for the Secretary of Health and Human Services to make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to prevent the abandonment of infants and young children and required the Secretary to provide for evaluations of those projects. As amended by Pub. L. 102-236, §8, the program became permanent, and Pub. L. 100-505, except title II, was transferred to subchapter IV-A (§5117aa et seq.) of chapter 67 of this title. Subsequently, title II of Pub. L. 100-505 was repealed by Pub. L. 111-320, title IV, §401(b), Dec. 20, 2010, 124 Stat. 3513.

STUDY OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS; REPORT TO CONGRESS NOT LATER THAN OCTOBER 1, 1983

Section 101(b) of Pub. L. 96-272 directed Secretary of Health, Education, and Welfare to conduct a study of programs of foster care and adoption assistance established under part IV-E of the Social Security Act (this part) and submit to Congress, not later than Oct. 1, 1983, a full and complete report thereon, together with his recommendations as to (A) whether such part IV-E should be continued, and if so, (B) the changes (if any) which should be made in such part IV-E.

§ 671. State plan for foster care and adoption assistance

(a) Requisite features of State plan

In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) provides for foster care maintenance payments in accordance with section 672 of this title and for adoption assistance in accordance with section 673 of this title;

(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this subchapter shall administer, or supervise the administration of, the program authorized by this part;

(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if

administered by them, be mandatory upon them;

(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this subchapter, under division A¹ of subchapter XX of this chapter, and under any other appropriate provision of Federal law;

(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the “State agency”) will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(8) subject to subsection (c), provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this subchapter or under subchapter I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX of this chapter, or the supplemental security income program established by subchapter XVI of this chapter, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures

¹ See References in Text note below.

to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(9) provides that the State agency will—

(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B of this subchapter or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;

(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this subchapter, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care;

(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this subchapter, which shall be conducted no less frequently than once every three years;

(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

(15) provides that—

(A) in determining reasonable efforts to be made with respect to a child, as described in this paragraph, and in making such reasonable efforts, the child's health and safety shall be the paramount concern;

(B) except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families—

(i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and

(ii) to make it possible for a child to safely return to the child's home;

(C) if continuation of reasonable efforts of the type described in subparagraph (B) is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan (including, if appropriate, through an interstate placement), and to complete whatever steps are necessary to finalize the permanent placement of the child;

(D) reasonable efforts of the type described in subparagraph (B) shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction has determined that—

(i) the parent has subjected the child to aggravated circumstances (as defined in State law, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse);

(ii) the parent has—

(I) committed murder (which would have been an offense under section 1111(a) of title 18, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(II) committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of the parent;

(III) aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter; or

(IV) committed a felony assault that results in serious bodily injury to the child or another child of the parent; or

(iii) the parental rights of the parent to a sibling have been terminated involuntarily;

(E) if reasonable efforts of the type described in subparagraph (B) are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in accordance with subparagraph (D)—

(i) a permanency hearing (as described in section 675(5)(C) of this title), which considers in-State and out-of-State permanent placement options for the child, shall be held for the child within 30 days after the determination; and

(ii) reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child; and

(F) reasonable efforts to place a child for adoption or with a legal guardian, including identifying appropriate in-State and out-of-State placements² may be made concurrently with reasonable efforts of the type described in subparagraph (B);

(16) provides for the development of a case plan (as defined in section 675(1) of this title) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 675(5)(B) of this title with respect to each such child;

(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the program funded under part A of this subchapter and plan approved under part D of this subchapter, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part;

(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved;

(19) provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards;

(20)(A) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A)¹ of title 28), for any prospective foster or adoptive parent before the foster or adoptive parent may be finally approved for placement of a child regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part, including procedures requiring that—

(i) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for child abuse or neglect, for spousal abuse, for a crime against children (including child pornography), or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery, if a State finds that a court of competent jurisdiction has determined that the felony was committed at any time, such final approval shall not be granted; and

(ii) in any case involving a child on whose behalf such payments are to be so made in which a record check reveals a felony conviction for physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years, such final approval shall not be granted; and³

(B) provides that the State shall—

(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

(ii) comply with any request described in clause (i) that is received from another State; and

(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases; and

(C) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A)¹ of title 28), on any relative guardian, and for checks described in subparagraph (B) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under the State plan under this part;

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under subchapter XIX of this chapter) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

(A) such coverage may be provided through 1 or more State medical assistance programs;

² So in original. Probably should be followed by a comma.

³ So in original. The word "and" probably should not appear.

(B) the State, in providing such coverage, shall ensure that the medical benefits, including mental health benefits, provided are of the same type and kind as those that would be provided for children by the State under subchapter XIX of this chapter;

(C) in the event that the State provides such coverage through a State medical assistance program other than the program under subchapter XIX of this chapter, and the State exceeds its funding for services under such other program, any such child shall be deemed to be receiving aid or assistance under the State plan under this part for purposes of section 1396a(a)(10)(A)(i)(I) of this title; and

(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program;

(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children;

(23) provides that the State shall not—

(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness;

(24) include⁴ a certification that, before a child in foster care under the responsibility of the State is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child;

(25) provide⁵ that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph;

(26) provides that—

(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State shall, directly or by contract—

(I) conduct and complete the study; and

(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and

(ii) in the case of a home study begun on or before September 30, 2008, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check, or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A);

(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 672 of this title on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child;

(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 673(d) of this title;

(29) provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other

⁴ So in original. Probably should be "includes".

⁵ So in original. Probably should be "provides".

adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 673(d) of this title to receive the payments;

(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is—

(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child;

(31) provides that reasonable efforts shall be made—

(A) to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

(B) in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

(32) provides that the State will negotiate in good faith with any Indian tribe, tribal organi-

zation or tribal consortium in the State that requests to develop an agreement with the State to administer all or part of the program under this part on behalf of Indian children who are under the authority of the tribe, organization, or consortium, including foster care maintenance payments on behalf of children who are placed in State or tribally licensed foster family homes, adoption assistance payments, and, if the State has elected to provide such payments, kinship guardianship assistance payments under section 673(d) of this title, and tribal access to resources for administration, training, and data collection under this part; and

(33) provides that the State will inform any individual who is adopting, or whom the State is made aware is considering adopting, a child who is in foster care under the responsibility of the State of the potential eligibility of the individual for a Federal tax credit under section 23 of the Internal Revenue Code of 1986.

(b) Approval of plan by Secretary

The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section.

(c) Use of child welfare records in State court proceedings

Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.

(Aug. 14, 1935, ch. 531, title IV, §471, as added Pub. L. 96-272, title I, §101(a)(1), June 17, 1980, 94 Stat. 501; amended Pub. L. 97-35, title XXIII, §2353(r), Aug. 13, 1981, 95 Stat. 874; Pub. L. 97-248, title I, §160(d), Sept. 3, 1982, 96 Stat. 400; Pub. L. 98-378, §11(c), Aug. 16, 1984, 98 Stat. 1318; Pub. L. 99-514, title XVII, §1711(c)(2), Oct. 22, 1986, 100 Stat. 2784; Pub. L. 100-485, title II, §202(c)(1), Oct. 13, 1988, 102 Stat. 2378; Pub. L. 101-508, title V, §5054(b), Nov. 5, 1990, 104 Stat. 1388-229; Pub. L. 103-66, title XIII, §13711(b)(4), Aug. 10, 1993, 107 Stat. 655; Pub. L. 103-432, title II, §203(b), Oct. 31, 1994, 108 Stat. 4456; Pub. L. 104-188, title I, §1808(a), Aug. 20, 1996, 110 Stat. 1903; Pub. L. 104-193, title I, §108(d)(2), title V, §505, Aug. 22, 1996, 110 Stat. 2166, 2278; Pub. L. 105-33, title V, §5591(b), Aug. 5, 1997, 111 Stat. 643; Pub. L. 105-89, title I, §§101(a), 106, title III, §§306, 308, Nov. 19, 1997, 111 Stat. 2116, 2120, 2132, 2133; Pub. L. 105-200, title III, §301(a), July 16, 1998, 112 Stat. 658; Pub. L. 106-169, title I, §112(a), title IV, §401(o), Dec. 14, 1999, 113 Stat. 1829, 1859; Pub. L. 109-171, title VII, §7401(c), Feb. 8, 2006, 120 Stat. 150; Pub. L. 109-239, §§3, 4(a)(1), 10, July 3, 2006, 120 Stat. 508, 513; Pub. L. 109-248, title I, §152(a), (b), July 27, 2006, 120 Stat. 608, 609; Pub. L. 109-432, div. B, title IV, §405(c)(1)(B)(i), Dec. 20, 2006, 120 Stat. 2999; Pub. L. 110-351, title I, §§101(a), (c)(2)(A), (B)(i), 103, 104(a), title II, §§204(b), 206, title III, §301(c)(1)(A), title IV, §403, Oct. 7, 2008, 122 Stat. 3950-3952, 3956, 3957, 3960, 3962, 3969, 3979; Pub. L. 111-148, title VI, §6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803.)

REFERENCES IN TEXT

Division A of subchapter XX, referred to in subsec. (a)(4), was in the original a reference to subtitle 1 of title XX, which was translated as if referring to subtitle A of title XX of the Social Security Act, to reflect the probable intent of Congress. Title XX of the Act, enacting subchapter XX of this chapter, does not contain a subtitle 1.

Section 534(e)(3)(A) of title 28, referred to in subsec. (a)(20)(A), (C), was redesignated section 534(f)(3)(A) of title 28 by Pub. L. 109-248, title I, §153(i), July 27, 2006, 120 Stat. 611.

The Internal Revenue Code of 1986, referred to in subsec. (a)(33), is classified generally to Title 26, Internal Revenue Code.

CODIFICATION

Amendment by section 101(c)(2)(B)(i) of Pub. L. 110-351 was executed after amendment by section 101(c)(2)(A)(ii) of Pub. L. 110-351, notwithstanding section 101(c)(2)(B)(ii) of Pub. L. 110-351, set out as an Effective Date of 2008 Amendment note below, to reflect the probable intent of Congress.

AMENDMENTS

2010—Subsec. (a)(4). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Subsec. (a)(10). Pub. L. 110-351, §104(a), substituted “civil rights, provides” for “civil rights, and provides” and inserted “, and provides that a waiver of any such standard may be made only on a case-by-case basis for non-safety standards (as determined by the State) in relative foster family homes for specific children in care” before semicolon at end.

Subsec. (a)(20)(B). Pub. L. 110-351, §101(c)(2)(A)(i), which directed insertion of “and” at end of subpar. (C), was executed by making the insertion at end of subpar. (B), to reflect the probable intent of Congress and the redesignation of subpar. (C) as (B) by Pub. L. 109-248, §152(b)(2). See 2006 Amendment note below.

Subsec. (a)(20)(C). Pub. L. 110-351, §101(c)(2)(B)(i)(II), redesignated subpar. (D) as (C). See Codification note above.

Subsec. (a)(20)(D). Pub. L. 110-351, §101(c)(2)(B)(i)(II), redesignated subpar. (D) as (C). See Codification note above.

Pub. L. 110-351, §101(c)(2)(B)(i)(I), substituted “subparagraph (B)” for “subparagraph (C)”. See Codification note above.

Pub. L. 110-351, §101(c)(2)(A)(ii), added subpar. (D).

Subsec. (a)(28). Pub. L. 110-351, §101(a), added par. (28).

Subsec. (a)(29). Pub. L. 110-351, §103, added par. (29).

Subsec. (a)(30). Pub. L. 110-351, §204(b), added par. (30).

Subsec. (a)(31). Pub. L. 110-351, §206, added par. (31).

Subsec. (a)(32). Pub. L. 110-351, §301(c)(1)(A), added par. (32).

Subsec. (a)(33). Pub. L. 110-351, §403, added par. (33).

2006—Subsec. (a)(8). Pub. L. 109-171, §7401(c)(1), inserted “subject to subsection (c),” after “(8)”.

Subsec. (a)(15)(C). Pub. L. 109-239, §10(a), inserted “(including, if appropriate, through an interstate placement)” after “accordance with the permanency plan”.

Subsec. (a)(15)(E)(i). Pub. L. 109-239, §10(b), inserted “, which considers in-State and out-of-State permanent placement options for the child,” before “shall”.

Subsec. (a)(15)(F). Pub. L. 109-239, §10(c), inserted “, including identifying appropriate in-State and out-of-State placements” before “may”.

Subsec. (a)(20)(A). Pub. L. 109-248, §152(b)(1), struck out “unless an election provided for in subparagraph (B) is made with respect to the State,” before “provides procedures” in introductory provisions.

Pub. L. 109-248, §152(a)(1)(A)(i), which directed amendment of subpar. (A) by inserting “, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28),” after “criminal records checks” and substituting “regardless of whether foster care maintenance payments

or adoption assistance payments are to be made on behalf of the child” for “on whose behalf foster care maintenance payments or adoption assistance payments are to be made” in the matter preceding “clause (I)”, was executed by making the insertion and substitution in the introductory provisions preceding cl. (i), to reflect the probable intent of Congress.

Subsec. (a)(20)(A)(i), (ii). Pub. L. 109-248, §152(a)(1)(A)(ii), inserted “involving a child on whose behalf such payments are to be so made” after “in any case”.

Subsec. (a)(20)(B). Pub. L. 109-248, §152(b)(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “subparagraph (A) shall not apply to a State plan if, on or before September 30, 2005, the Governor of the State has notified the Secretary in writing that the State has elected to make subparagraph (A) inapplicable to the State, or if, on or before such date, the State legislature, by law, has elected to make subparagraph (A) inapplicable to the State;”.

Pub. L. 109-248, §152(a)(2), inserted “, on or before September 30, 2005,” after “plan if” and “, on or before such date,” after “or if”.

Subsec. (a)(20)(C). Pub. L. 109-248, §152(b)(2), redesignated subpar. (C) as (B).

Pub. L. 109-248, §152(a)(1)(B), added subpar. (C).

Subsec. (a)(25). Pub. L. 109-239, §3, added par. (25).

Subsec. (a)(26). Pub. L. 109-239, §4(a)(1), added par. (26).

Subsec. (a)(27). Pub. L. 109-432 added par. (27).

Subsec. (c). Pub. L. 109-171, §7401(c)(2), added subsec. (c).

1999—Subsec. (a)(8). Pub. L. 106-169, §401(o), struck out “(including activities under part F of this subchapter)” after “part A, B, or D of this subchapter”.

Subsec. (a)(24). Pub. L. 106-169, §112(a), added par. (24).

1998—Subsec. (a)(23). Pub. L. 105-200 added par. (23).

1997—Subsec. (a)(15). Pub. L. 105-89, §101(a), amended par. (15) generally. Prior to amendment, par. (15) read as follows: “effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;”.

Subsec. (a)(17). Pub. L. 105-33, §5591(b)(1), struck out “and” at end.

Subsec. (a)(18). Pub. L. 105-33, §5591(b)(3), redesignated par. (18), relating to preference to adult relatives, as (19).

Pub. L. 105-33, §5591(b)(2), substituted “; and” for period at end of par. (18) relating to denial or delay of adoption or foster care on basis of race, color, or national origin.

Subsec. (a)(19). Pub. L. 105-33, §5591(b)(3), redesignated par. (18), relating to preference to adult relatives, as (19).

Subsec. (a)(20). Pub. L. 105-89, §106, added par. (20).

Subsec. (a)(21). Pub. L. 105-89, §306, added par. (21).

Subsec. (a)(22). Pub. L. 105-89, §308, added par. (22).

1996—Subsec. (a)(17). Pub. L. 104-193, §108(d)(2), substituted “program funded under part A of this subchapter and plan approved under part D of this subchapter” for “plans approved under parts A and D of this subchapter”.

Subsec. (a)(18). Pub. L. 104-193, §505(3), added par. (18) relating to preference to adult relatives.

Pub. L. 104-188, §1808(a)(3), added par. (18) relating to denial or delay of adoption or foster care on basis of race, color, or national origin.

1994—Subsec. (b). Pub. L. 103-432 struck out after first sentence “However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a) of this section, or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments

will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.”

1993—Subsec. (a)(2). Pub. L. 103-66 substituted “subpart 1 of part B” for “part B”.

1990—Subsec. (a)(8)(E). Pub. L. 101-508, §5054(b)(2), added cl. (E).

Subsec. (a)(9). Pub. L. 101-508, §5054(b)(1), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this subchapter is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;”.

1988—Subsec. (a)(8)(A). Pub. L. 100-485 substituted “part A, B, or D of this subchapter (including activities under part F of this subchapter)” for “part A, B, C, or D of this subchapter”.

1986—Subsec. (a)(1), (11). Pub. L. 99-514 substituted “adoption assistance” for “adoption assistance payments”.

1984—Subsec. (a)(17). Pub. L. 98-378 added par. (17).

1982—Subsec. (a)(10). Pub. L. 97-248 amended Pub. L. 97-35, §2353(r), generally. See 1981 Amendment note below.

1981—Subsec. (a)(10). Pub. L. 97-35, §2353(r), as amended by Pub. L. 97-248, §160(d), substituted provisions that in order for a State to be eligible for payments under this part a State plan must provide for establishment or designation of a State authority or authorities responsible for standards for foster family homes and child care institutions, such standards to be reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, for provisions that such State plan provide for the application of standards referred to in section 1397b(d)(1) of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-351, title I, §101(c)(2)(B)(ii), Oct. 7, 2008, 122 Stat. 3952, provided that: “The amendments made by clause (i) [amending this section] shall take effect immediately after the amendments made by section 152 of Public Law 109-248 [amending this section] take effect.”

Pub. L. 110-351, title III, §301(f), Oct. 7, 2008, 122 Stat. 3971, provided that: “The amendments made by subsections (a), (b), and (c) [enacting section 679c of this title and amending this section and sections 672, 674, and 677 of this title] shall take effect on October 1, 2009, without regard to whether the regulations required under subsection (e)(1) [set out as a Regulations note below] have been promulgated by such date.”

Pub. L. 110-351, title VI, §601, Oct. 7, 2008, 122 Stat. 3981, provided that:

“(a) IN GENERAL.—Except as otherwise provided in this Act [see Short Title of 2008 Amendment note set out under section 1305 of this title], each amendment made by this Act to part B or E of title IV of the Social Security Act [part B of this subchapter and this part] shall take effect on the date of the enactment of this Act [Oct. 7, 2008], and shall apply to payments under the part amended for quarters beginning on or after the effective date of the amendment.

“(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under part B or E of title IV of the Social Security Act [part B of this subchapter and this part] which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional re-

quirements imposed by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that ends after the 1-year period beginning with the date of the enactment of this Act [Oct. 7, 2008]. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. B, title IV, §405(c)(1)(B)(iii), Dec. 20, 2006, 120 Stat. 2999, provided that: “The amendments made by this subparagraph [amending this section and section 1320a-2a of this title] shall take effect on the date that is 6 months after the date of the enactment of this Act [Dec. 20, 2006].”

Pub. L. 109-248, title I, §152(c), July 27, 2006, 120 Stat. 609, provided that:

“(1) GENERAL.—The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2006, and shall apply with respect to payments under part E of title IV of the Social Security Act [this part] for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

“(2) ELIMINATION OF OPT-OUT.—The amendments made by subsection (b) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

“(3) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under section 471 of the Social Security Act [this section] to meet the additional requirements imposed by the amendments made by a subsection of this section, the plan shall not be regarded as failing to meet any of the additional requirements before the first day of the first calendar quarter beginning after the first regular session of the State legislature that begins after the otherwise applicable effective date of the amendments. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.”

Amendment by Pub. L. 109-239 effective Oct. 1, 2006, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after Oct. 1, 2006, without regard to whether regulations have been promulgated by Oct. 1, 2006, and with delay permitted if State legislation is required, see section 14 of Pub. L. 109-239, set out as a note under section 622 of this title.

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-169, title I, §112(b), Dec. 14, 1999, 113 Stat. 1829, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1999.”

Amendment by section 401(o) of Pub. L. 106-169 effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 401(q) of Pub. L. 106-169, set out as a note under section 602 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-200, title III, §301(d), July 16, 1998, 112 Stat. 658, provided that: “The amendments made by

this section [amending this section and section 674 of this title] shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105-89; 111 Stat. 2125) [see Effective Date of 1997 Amendments note below].”

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

Amendment by Pub. L. 105-33 effective as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5593 of Pub. L. 105-33, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 108(d)(2) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 203(c)(2) of Pub. L. 103-432 provided that: “The amendment made by subsection (b) [amending this section] shall take effect on October 1, 1995.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 effective with respect to calendar quarters beginning on or after Oct. 1, 1993, see section 13711(c) of Pub. L. 103-66, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5054(c) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and section 602 of this title] shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted [November 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 204 of title II of Pub. L. 100-485 provided that: “(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title [enacting sections 681 to 687 of this title, amending this section, sections 602, 603, 607, 1308, 1396a, and 1396s of this title, and section 51 of Title 26, Internal Revenue Code, repealing sections 609, 614, 630 to 632, and 633 to 645 of this title, and enacting provisions set out as notes under section 681 of this title] shall become effective on October 1, 1990.

“(b) SPECIAL RULES.—(1)(A) If any State makes the changes in its State plan approved under section 402 of the Social Security Act [section 602 of this title] that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 203(a) [42 U.S.C. 671 note] (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1990, such amendments shall become effective with respect to that State as of such first day.

“(B) In the case of any State in which the amendments made by this title become effective (in accordance with subparagraph (A)) with respect to any quar-

ter of a fiscal year beginning before October 1, 1990, the limitation applicable to the State for the fiscal year under section 403(k)(2) of the Social Security Act [section 603(k)(2) of this title] (as added by section 201(c)(1) of this Act) shall be an amount that bears the same ratio to such limitation (as otherwise determined with respect to the State for the fiscal year) as the number of quarters in the fiscal year throughout which such amendments apply to the State bears to 4.

“(2) Section 403(l)(3) of the Social Security Act [section 603(l)(3) of this title] (as added by section 201(c)(2) of this Act) is repealed effective October 1, 1995 (except that subparagraph (A) of such section 403(l)(3) shall remain in effect for purposes of applying any reduction in payment rates required by such subparagraph for any of the fiscal years specified therein); and section 403(l)(4) of such Act (as so added) is repealed effective October 1, 1998.

“(3) Subsections (a), (c), and (d) of section 203 of this Act [42 U.S.C. 671 note, 681 notes], and section 486 of the Social Security Act [section 686 of this title] (as added by section 201(b) of this Act), shall become effective on the date of the enactment of this Act [Oct. 13, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable only with respect to expenditures made after Dec. 31, 1986, see section 1711(d) of Pub. L. 99-514, set out as a note under section 670 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-378 effective Oct. 1, 1984, and applicable to collections made on or after that date, see section 11(e) of Pub. L. 98-378, set out as a note under section 654 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Oct. 1, 1981, see section 160(e) of Pub. L. 97-248, set out as a note under section 1301 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

REGULATIONS

Pub. L. 110-351, title III, §301(e), Oct. 7, 2008, 122 Stat. 3970, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, not later than 1 year after the date of enactment of this section [Oct. 7, 2008], the Secretary of Health and Human Services, in consultation with Indian tribes, tribal organizations, tribal consortia, and affected States, shall promulgate interim final regulations to carry out this section [enacting section 679c of this title and amending this section and sections 672, 674, and 677 of this title] and the amendments made by this section. Such regulations shall include procedures to ensure that a transfer of responsibility for the placement and care of a child under a State plan approved under section 471 of the Social Security Act [42 U.S.C. 671] to a tribal plan approved under section 471 of such Act in accordance with section 479B of such Act [42 U.S.C. 679c] (as added by subsection (a)(1) of this section) or to an Indian tribe, a tribal organization, or a tribal consortium that has entered into a cooperative agreement or contract with a State for the administration or payment of funds under part E of title IV of such Act [this part] does not affect the eligibility of, provision of services for, or the making of payments on behalf of, such children under part E of title IV of such Act, or the eligibility of such children for medical assistance under title XIX of such Act [subchapter XIX of this chapter].

“(2) IN-KIND EXPENDITURES FROM THIRD-PARTY SOURCES FOR PURPOSES OF DETERMINING NON-FEDERAL SHARE OF ADMINISTRATIVE AND TRAINING EXPENDITURES.—

“(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, not later than September 30, 2011, the Secretary of Health and Human Services, in consultation with Indian tribes, tribal organizations, and tribal consortia, shall promulgate interim final regulations specifying the types of in-kind expenditures, including plants, equipment, administration, and services, and the third-party sources for such in-kind expenditures which may be claimed by tribes, organizations, and consortia with plans approved under section 471 of the Social Security Act [42 U.S.C. 671] in accordance with section 479B of such Act [42 U.S.C. 679c], up to such percentages as the Secretary, in such consultation shall specify in such regulations, for purposes of determining the non-Federal share of administrative and training expenditures for which the tribes, organizations, and consortia may receive payments for [sic] under any subparagraph of section 474(a)(3) of such Act [42 U.S.C. 674(a)(3)].

“(B) EFFECTIVE DATE.—In no event shall the regulations required to be promulgated under subparagraph (A) take effect prior to October 1, 2011.

“(C) SENSE OF THE CONGRESS.—It is the sense of the Congress that if the Secretary of Health and Human Services fails to publish in the Federal Register the regulations required under subparagraph (A) of this paragraph, the Congress should enact legislation specifying the types of in-kind expenditures and the third-party sources for such in-kind expenditures which may be claimed by tribes, organizations, and consortia with plans approved under section 471 of the Social Security Act [42 U.S.C. 671] in accordance with section 479B of such Act [42 U.S.C. 679c], up to specific percentages, for purposes of determining the non-Federal share of administrative and training expenditures for which the tribes, organizations, and consortia may receive payments for [sic] under any subparagraph of section 474(a)(3) of such Act [42 U.S.C. 674(a)(3)].”

Section 203(a) of title II of Pub. L. 100-485 provided that: “Not later than 6 months after the date of the enactment of this Act [Oct. 13, 1988], the Secretary of Health and Human Services (in this section referred to as the ‘Secretary’) shall issue proposed regulations for the purpose of implementing the amendments made by this title [see Effective Date of 1988 Amendment note above], including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of the enactment of this Act. Regulations issued under this subsection shall be developed by the Secretary in consultation with the Secretary of Labor and with the responsible State agencies described in section 482(a)(2) of the Social Security Act [section 682(a)(2) of this title].”

CONSTRUCTION OF 2008 AMENDMENT

Pub. L. 110-351, title III, §301(d), Oct. 7, 2008, 122 Stat. 3970, provided that: “Nothing in the amendments made by this section [enacting section 679c of this title and amending this section and sections 672, 674, and 677 of this title] shall be construed as—

“(1) authorization to terminate funding on behalf of any Indian child receiving foster care maintenance payments or adoption assistance payments on the date of enactment of this Act [Oct. 7, 2008] and for which the State receives Federal matching payments under paragraph (1) or (2) of section 474(a) of the Social Security Act (42 U.S.C. 674(a)), regardless of whether a cooperative agreement or contract between the State and an Indian tribe, tribal organization, or tribal consortium is in effect on such date or an Indian tribe, tribal organization, or tribal consortium elects subsequent to such date to operate a program under section 479B of such Act [42 U.S.C. 679c] (as added by subsection (a) of this section); or

“(2) affecting the responsibility of a State—

“(A) as part of the plan approved under section 471 of the Social Security Act (42 U.S.C. 671), to provide foster care maintenance payments, adoption

assistance payments, and if the State elects, kinship guardianship assistance payments, for Indian children who are eligible for such payments and who are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to a program under such section 479B of such Act or a cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under part E of title IV of such Act [this part]; or

“(B) as part of the plan approved under section 477 of such Act (42 U.S.C. 677) to administer, supervise, or oversee programs carried out under that plan on behalf of Indian children who are eligible for such programs if such children are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to an approved plan under section 477(j) of such Act [42 U.S.C. 677(j)] or a cooperative agreement or contract entered into under section 477(b)(3)(G) of such Act [42 U.S.C. 677(b)(3)(G)].”

NO FEDERAL FUNDING TO UNLAWFULLY PRESENT INDIVIDUALS

Pub. L. 110-351, title V, §503, Oct. 7, 2008, 122 Stat. 3981, provided that: “Nothing in this Act [see Short Title of 2008 Amendment note set out under section 1305 of this title] shall be construed to alter prohibitions on Federal payments to individuals who are unlawfully present in the United States.”

PRESERVATION OF REASONABLE PARENTING

Section 401 of Pub. L. 105-89 provided that: “Nothing in this Act [see Short Title of 1997 Amendment note set out under section 1305 of this title] is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.”

REPORTING REQUIREMENTS

Section 402 of Pub. L. 105-89 provided that: “Any information required to be reported under this Act [see Short Title of 1997 Amendment note set out under section 1305 of this title] shall be supplied to the Secretary of Health and Human Services through data meeting the requirements of the Adoption and Foster Care Analysis and Reporting System established pursuant to section 479 of the Social Security Act (42 U.S.C. 679), to the extent such data is available under that system. The Secretary shall make such modifications to regulations issued under section 479 of such Act with respect to the Adoption and Foster Care Analysis and Reporting System as may be necessary to allow States to obtain data that meets the requirements of such system in order to satisfy the reporting requirements of this Act.”

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Section 406 of Pub. L. 105-89 provided that:

“(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act [see Short Title of 1997 Amendment note set out under section 1305 of this title] should be American-made.

“(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.”

§ 672. Foster care maintenance payments program

(a) In general

(1) Eligibility

Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996) into foster care if—

(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

(B) the child, while in the home, would have met the AFDC eligibility requirement of paragraph (3).

(2) Removal and foster care placement requirements

The removal and foster care placement of a child meet the requirements of this paragraph if—

(A) the removal and foster care placement are in accordance with—

(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 671(a)(15) of this title for a child have been made;

(B) the child's placement and care are the responsibility of—

(i) the State agency administering the State plan approved under section 671 of this title;

(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; or

(iii) an Indian tribe or a tribal organization (as defined in section 679c(a) of this title) or a tribal consortium that has a plan approved under section 671 of this title in accordance with section 679c of this title; and

(C) the child has been placed in a foster family home or child-care institution.

(3) AFDC eligibility requirement

(A) In general

A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child—

(i) would have received aid under the State plan approved under section 602 of this title (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

(ii)(I) would have received the aid in the home, in or for the month referred to in

clause (i), if application had been made therefor; or

(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

(B) Resources determination

For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 602(a)(7)(B) of this title).

(4) Eligibility of certain alien children

Subject to title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.], if the child is an alien disqualified under section 1255a(h) or 1160(f) of title 8 from receiving aid under the State plan approved under section 602 of this title in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.

(b) Additional qualifications

Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payments" (as defined in section 675(4) of this title).

(c) "Foster family home" and "child-care institution" defined

For the purposes of this part, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term "child-care institution" means a private child-care institution, or a public child-

care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(d) Children removed from their homes pursuant to voluntary placement agreements

Notwithstanding any other provision of this subchapter, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a) of this section, only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 622(b)(8) of this title.

(e) Placements in best interest of child

No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) of this section and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

(f) "Voluntary placement" and "voluntary placement agreement" defined

For the purposes of this part and part B of this subchapter, (1) the term "voluntary placement" means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term "voluntary placement agreement" means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

(g) Revocation of voluntary placement agreement

In any case where—

(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a) of this section, and

(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(h) Aid for dependent children; assistance for minor children in needy families

(1) For purposes of subchapter XIX of this chapter, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 606 of this title (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this subchapter (as so in effect). For purposes of division A¹ of subchapter XX of this chapter, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this subchapter and is deemed to be a recipient of assistance under such part.

(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are made under this section.

(i) Administrative costs associated with otherwise eligible children not in licensed foster care settings

Expenditures by a State that would be considered administrative expenditures for purposes of section 674(a)(3) of this title if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution—

(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996), only for expenditures—

(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if—

¹ See References in Text note below.

(A) reasonable efforts are being made in accordance with section 671(a)(15) of this title to prevent the need for, or if necessary to pursue, removal of the child from the home; and

(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.

(Aug. 14, 1935, ch. 531, title IV, § 472, as added and amended Pub. L. 96-272, title I, §§ 101(a)(1), 102(a)(1), (2), June 17, 1980, 94 Stat. 503, 513, 514; Pub. L. 99-603, title II, § 201(b)(2)(A), title III, §§ 302(b)(2), 303(e)(2), Nov. 6, 1986, 100 Stat. 3403, 3422, 3431; Pub. L. 100-203, title IX, §§ 9133(b)(2), 9139(a), Dec. 22, 1987, 101 Stat. 1330-314, 1330-321; Pub. L. 103-432, title II, § 202(d)(3), Oct. 31, 1994, 108 Stat. 4454; Pub. L. 104-193, title I, § 108(d)(3), (4), title V, § 501, Aug. 22, 1996, 110 Stat. 2166, 2277; Pub. L. 105-33, title V, §§ 5513(b)(1), (2), 5592(b), Aug. 5, 1997, 111 Stat. 620, 644; Pub. L. 105-89, title I, § 101(c), Nov. 19, 1997, 111 Stat. 2117; Pub. L. 106-169, title I, § 111, Dec. 14, 1999, 113 Stat. 1829; Pub. L. 109-113, § 2, Nov. 22, 2005, 119 Stat. 2371; Pub. L. 109-171, title VII, §§ 7403(a), 7404(a), Feb. 8, 2006, 120 Stat. 151; Pub. L. 109-288, § 6(f)(6), Sept. 28, 2006, 120 Stat. 1247; Pub. L. 110-351, title II, § 201(b), title III, § 301(a)(2), Oct. 7, 2008, 122 Stat. 3958, 3967; Pub. L. 111-148, title VI, § 6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803.)

REFERENCES IN TEXT

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (a)(4), is Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§ 1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

Division A of subchapter XX, referred to in subsec. (h)(1), was in the original a reference to subtitle 1 of title XX, which was translated as if referring to subtitle A of title XX of the Social Security Act, to reflect the probable intent of Congress. Title XX of the Act, enacting subchapter XX of this chapter, does not contain a subtitle 1.

AMENDMENTS

2010—Subsec. (h)(1). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Subsec. (a)(2)(B)(iii). Pub. L. 110-351, § 301(a)(2), added cl. (iii).

Subsec. (c)(2). Pub. L. 110-351, § 201(b), inserted “except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations,” before “but the term”.

2006—Subsec. (a). Pub. L. 109-171, § 7404(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to qualifying children for foster care maintenance payments.

Subsec. (d). Pub. L. 109-288 substituted “622(b)(8)” for “622(b)(10)”.

Subsec. (i). Pub. L. 109-171, § 7403(a), added subsec. (i). 2005—Subsec. (b). Pub. L. 109-113 struck out “non-profit” before “private” in pars. (1) and (2).

1999—Subsec. (a). Pub. L. 106-169 inserted at end “In determining whether a child would have received aid under a State plan approved under section 602 of this title (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 602(a)(7)(B) of this title, as so in effect) have a combined value of not more than \$10,000 shall be considered to be a child whose resources have a combined value of not more

than \$1,000 (or such lower amount as the State may determine for purposes of such section 602(a)(7)(B) of this title).

1997—Subsec. (a). Pub. L. 105-33, § 5513(b)(1), substituted “July 16, 1996” for “June 1, 1995” in introductory provisions.

Subsec. (a)(1). Pub. L. 105-89 inserted “for a child” before “have been made;”.

Subsec. (a)(4). Pub. L. 105-33, § 5513(b)(1), substituted “July 16, 1996” for “June 1, 1995” in subpars. (A) and (B).

Subsec. (d). Pub. L. 105-33, § 5592(b), substituted “section 622(b)(10)” for “section 622(b)(9)”.

Subsec. (h)(1). Pub. L. 105-33, § 5513(b)(2), substituted “July 16, 1996” for “June 1, 1995”.

1996—Subsec. (a). Pub. L. 104-193, § 108(d)(3)(A), in introductory provisions, substituted “would have met the requirements” for “would meet the requirements” and inserted “(as such sections were in effect on June 1, 1995)” after “section 607 of this title” and “(as so in effect)” after “section 606(a) of this title”.

Subsec. (a)(4)(A). Pub. L. 104-193, § 108(d)(3)(B)(i), substituted “would have received aid” for “received aid” and inserted “(as in effect on June 1, 1995)” after “section 602 of this title”.

Subsec. (a)(4)(B)(ii). Pub. L. 104-193, § 108(d)(3)(B)(ii), inserted “(as in effect on June 1, 1995)” after “section 606(a) of this title”.

Subsec. (c)(2). Pub. L. 104-193, § 501, struck out “non-profit” before “private child-care institution.”

Subsec. (h). Pub. L. 104-193, § 108(d)(4), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are made under this section.”

1994—Subsec. (d). Pub. L. 103-432 substituted “section 622(b)(9) of this title” for “section 627(b) of this title”.

1987—Subsec. (a). Pub. L. 100-203, § 9139(a), substituted “section 673(a)(2)(B) of this title” for “section 673(a)(1)(B) of this title”.

Subsec. (h). Pub. L. 100-203, § 9133(b)(2), inserted sentence at end.

1986—Subsec. (a). Pub. L. 99-603, § 303(e)(2), inserted in closing provisions reference to cases in which a child is an alien disqualified under section 1161(d)(7) of title 8.

Pub. L. 99-603, § 302(b)(2), inserted in closing provisions reference to cases in which a child is an alien disqualified under section 1160(f) of title 8.

Pub. L. 99-603, § 201(b)(2)(A), inserted closing provisions: “In any case where the child is an alien disqualified under section 1255a(h) of title 8 from receiving aid under the State plan approved under section 602 of this title in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 673(a)(1)(B) of this title), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.”

1980—Subsec. (a). Pub. L. 96-272, § 102(a)(1), inserted provisions relating to voluntary placement agreements entered into by a child’s parent or legal guardian.

Subsecs. (d) to (h). Pub. L. 96-272, § 102(a)(2), added subsecs. (d) to (g). Former subsec. (d) was redesignated (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-351, title II, § 201(d), Oct. 7, 2008, 122 Stat. 3959, provided that: “The amendments made by this

section [amending this section and sections 673 and 675 of this title] shall take effect on October 1, 2010.”

Amendment by section 301(a)(2) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

Amendment by section 5513(b)(1), (2) of Pub. L. 105-33 effective as if included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 108 became law, see section 5518(b) of Pub. L. 105-33, set out as a note under section 652 of this title.

Amendment by section 5592(b) of Pub. L. 105-33 effective as if included in the enactment of title V of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5593 of Pub. L. 105-33, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 108(d)(3), (4) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-432 effective with respect to fiscal years beginning on or after Apr. 1, 1996, see section 202(e) of Pub. L. 103-432, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9133(c) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and sections 602, 673, and 675 of this title] shall become effective April 1, 1988.”

EFFECTIVE DATE OF 1980 AMENDMENT

Section 102(a)(1) of Pub. L. 96-272, as amended by Pub. L. 98-118, §3(a), Oct. 11, 1983, 97 Stat. 803; Pub. L. 98-617, §4(c)(1), Nov. 8, 1984, 98 Stat. 3297; Pub. L. 99-272, title XII, §12306(c)(1), Apr. 7, 1986, 100 Stat. 294; Pub. L.

100-203, title IX, §9131(a)(1), Dec. 22, 1987, 101 Stat. 1330-313, provided that the amendment made by that section is effective with respect to expenditures made after Sept. 30, 1980.

Section 102(c) of Pub. L. 96-272, as amended by Pub. L. 98-118, §3(b), Oct. 11, 1983, 97 Stat. 803; Pub. L. 98-617, §4(c)(2), Nov. 8, 1984, 98 Stat. 3297; Pub. L. 99-272, title XII, §12306(c)(2), Apr. 7, 1986, 100 Stat. 294; Pub. L. 100-203, title IX, §9131(a)(2), Dec. 22, 1987, 101 Stat. 1330-313, provided that: “The amendments made by subsections (a) and (b) [amending this section and sections 608, 673, and 675 of this title] shall be effective only with respect to expenditures made after September 30, 1979.”

[Section 9131(b) of Pub. L. 100-203 provided that: “The amendments made by subsection (a) [amending section 102(a)(1), (c), and (e) of Pub. L. 96-272, set out as notes under this section] shall become effective October 1, 1987.”]

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(a)(2) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

CHILDREN VOLUNTARILY REMOVED FROM HOME OF RELATIVE

Section 102(d)(1) of Pub. L. 96-272 provided that: “For purposes of section 472 of the Social Security Act [this section], a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein would be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of section 471(a)(16) of such Act [section 671(a)(16) of this title] have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any child described in the preceding sentence, for purposes of section 472(a)(4) of such Act [subsec. (a)(4) of this section], the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal.”

ANNUAL REPORT TO CONGRESS OF NUMBER OF CHILDREN PLACED IN FOSTER CARE PURSUANT TO VOLUNTARY PLACEMENT AGREEMENTS

Pub. L. 96-272, title I, §102(e), June 17, 1980, 94 Stat. 515, as amended by Pub. L. 100-203, title IX, §9131(a)(3), Dec. 22, 1987, 101 Stat. 1330-313, which required the Secretary of Health, Education, and Welfare, to submit to Congress a full and complete annual report on the placement of children in foster care pursuant to voluntary placement agreements under this section and section 608 of this title, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, item 12 on page 99 of House Document No. 103-7.

§ 673. Adoption and guardianship assistance program

(a) Agreements with adoptive parents of children with special needs; State payments; qualifying children; amount of payments; changes in circumstances; placement period prior to adoption; nonrecurring adoption expenses

(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 675(3) of this title) with the adoptive parents of children with special needs.

(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if—

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I)(aa)(AA) was removed from the home of a relative specified in section 606(a) of this title (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 674 of this title (or section 603 of this title, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(BB) met the requirements of section 672(a)(3) of this title with respect to the home referred to in subitem (AA) of this item;

(bb) meets all of the requirements of subchapter XVI with respect to eligibility for supplemental security income benefits; or

(cc) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 675(4)(B) of this title; and

(II) has been determined by the State, pursuant to subsection (c)(1) of this section, to be a child with special needs; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child—

(I)(aa) at the time of initiation of adoption proceedings was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment;

(bb) meets all medical or disability requirements of subchapter XVI with respect to eligibility for supplemental security income benefits; or

(cc) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in such foster family home or child care institution pursuant to—

(AA) an involuntary removal of the child from the home in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; or

(BB) a voluntary placement agreement or voluntary relinquishment; and

(II) has been determined by the State, pursuant to subsection (c)(2), to be a child with special needs.

(B) Section 672(a)(4) of this title shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if—

(i) in the case of a child who is not an applicable child for the fiscal year (as defined in subsection (e)), the child—

(I) meets the requirements of subparagraph (A)(i)(II);

(II) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(III) is available for adoption because—

(aa) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

(bb) the child's adoptive parents have died; and

(IV) fails to meet the requirements of subparagraph (A)(i) but would meet such requirements if—

(aa) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

(bb) the prior adoption were treated as never having occurred; or

(ii) in the case of a child who is an applicable child for the fiscal year (as so defined), the child meets the requirements of subparagraph (A)(ii)(II), is determined eligible for adoption assistance payments under this part with respect to a prior adoption (or who would have been determined eligible for such payments had the Adoption and Safe Families Act of 1997 been in effect at the time that such determination would have been made), and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died.

(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 671(a)(28) of this title, the placement of the child with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child shall be considered never to have been made.

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under

this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

(i) who has attained—

(I) 18 years of age, or such greater age as the State may elect under section 675(8)(B)(iii) of this title; or

(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State’s payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 674(a)(3)(E) of this title.

(7)(A) Notwithstanding any other provision of this subsection, no payment may be made to parents with respect to any applicable child for a fiscal year that—

(i) would be considered a child with special needs under subsection (c)(2);

(ii) is not a citizen or resident of the United States; and

(iii) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(B) Subparagraph (A) shall not be construed as prohibiting payments under this part for an applicable child described in subparagraph (A) that is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the parents described in subparagraph (A).

(8) A State shall spend an amount equal to the amount of savings (if any) in State expenditures under this part resulting from the application of paragraph (2)(A)(ii) to all applicable children for a fiscal year to provide to children or families any service (including post-adoption services) that may be provided under this part or part B, and shall document how such amounts are spent, including on post-adoption services.

(b) Aid for dependent children; assistance for minor children in needy families

(1) For purposes of subchapter XIX of this chapter, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 606 of this title (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this subchapter (as so in effect) in the State where such child resides.

(2) For purposes of division A¹ of subchapter XX of this chapter, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this subchapter and deemed to be a recipient of assistance under such part.

(3) A child described in this paragraph is any child—

(A)(i) who is a child described in subsection (a)(2) of this section, and

(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued),

(B) with respect to whom foster care maintenance payments are being made under section 672 of this title, or

(C) with respect to whom kinship guardianship assistance payments are being made pursuant to subsection (d).

(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child’s minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are being made under section 672 of this title.

¹ See References in Text note below.

(c) Children with special needs

For purposes of this section—

(1) in the case of a child who is not an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined that the child cannot or should not be returned to the home of his parents; and

(B) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under subchapter XIX of this chapter, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under subchapter XIX of this chapter; or

(2) in the case of a child who is an applicable child for a fiscal year, the child shall not be considered a child with special needs unless—

(A) the State has determined, pursuant to a criterion or criteria established by the State, that the child cannot or should not be returned to the home of his parents;

(B)(i) the State has determined that there exists with respect to the child a specific factor or condition (such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance under this section and medical assistance under subchapter XIX; or

(ii) the child meets all medical or disability requirements of subchapter XVI with respect to eligibility for supplemental security income benefits; and

(C) the State has determined that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under subchapter XIX.

(d) Kinship guardianship assistance payments for children**(1) Kinship guardianship assistance agreement****(A) In general**

In order to receive payments under section 674(a)(5) of this title, a State shall—

(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph; and

(ii) provide the prospective relative guardian with a copy of the agreement.

(B) Minimum requirements

The agreement shall specify, at a minimum—

(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;

(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

(iii) the procedure by which the relative guardian may apply for additional services as needed; and

(iv) subject to subparagraph (D), that the State will pay the total cost of non-recurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000.

(C) Interstate applicability

The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the relative guardian.

(D) No effect on Federal reimbursement

Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

(2) Limitations on amount of kinship guardianship assistance payment

A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.

(3) Child's eligibility for a kinship guardianship assistance payment**(A) In general**

A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

(i) The child has been—

(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation

in the home would be contrary to the welfare of the child; and

(II) eligible for foster care maintenance payments under section 672 of this title while residing for at least 6 consecutive months in the home of the prospective relative guardian.

(ii) Being returned home or adopted are not appropriate permanency options for the child.

(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

(B) Treatment of siblings

With respect to a child described in subparagraph (A) whose sibling or siblings are not so described—

(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with section 671(a)(31) of this title, if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

(ii) kinship guardianship assistance payments may be paid on behalf of each sibling so placed.

(e) Applicable child defined

(1) On the basis of age

(A) In general

Subject to paragraphs (2) and (3), in this section, the term “applicable child” means a child for whom an adoption assistance agreement is entered into under this section during any fiscal year described in subparagraph (B) if the child attained the applicable age for that fiscal year before the end of that fiscal year.

(B) Applicable age

For purposes of subparagraph (A), the applicable age for a fiscal year is as follows:

In the case of fiscal year:	The applicable age is:
2010	16
2011	14
2012	12
2013	10
2014	8
2015	6
2016	4
2017	2
2018 or thereafter	any age.

(2) Exception for duration in care

Notwithstanding paragraph (1) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child—

(A) has been in foster care under the responsibility of the State for at least 60 consecutive months; and

(B) meets the requirements of subsection (a)(2)(A)(ii).

(3) Exception for member of a sibling group

Notwithstanding paragraphs (1) and (2) of this subsection, beginning with fiscal year 2010, such term shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section without regard to whether the child is described in paragraph (2)(A) of this subsection if the child—

(A) is a sibling of a child who is an applicable child for the fiscal year under paragraph (1) or (2) of this subsection;

(B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is their sibling; and

(C) meets the requirements of subsection (a)(2)(A)(ii).

(Aug. 14, 1935, ch. 531, title IV, §473, as added and amended Pub. L. 96-272, title I, §§101(a)(1), 102(a)(3), June 17, 1980, 94 Stat. 504, 514; Pub. L. 99-272, title XII, §12305(a), (b)(1), Apr. 7, 1986, 100 Stat. 293; Pub. L. 99-514, title XVII, §1711(a), (b), (c)(3)-(5), Oct. 22, 1986, 100 Stat. 2783, 2784; Pub. L. 99-603, title II, §201(b)(2)(B), Nov. 6, 1986, 100 Stat. 3403; Pub. L. 100-203, title IX, §§9133(b)(3), (4), 9139(b), Dec. 22, 1987, 101 Stat. 1330-314, 1330-321; Pub. L. 103-432, title II, §§265(b), 266(a), Oct. 31, 1994, 108 Stat. 4469; Pub. L. 104-193, title I, §108(d)(5), (6), Aug. 22, 1996, 110 Stat. 2167; Pub. L. 105-33, title V, §5513(b)(3), (4), Aug. 5, 1997, 111 Stat. 620; Pub. L. 105-89, title III, §307(a), Nov. 19, 1997, 111 Stat. 2133; Pub. L. 109-171, title VII, §7404(b), Feb. 8, 2006, 120 Stat. 153; Pub. L. 110-351, title I, §101(b), (c)(1), (5), (f), title II, §201(c), title IV, §402, Oct. 7, 2008, 122 Stat. 3950, 3951, 3953, 3958, 3975; Pub. L. 111-148, title VI, §6703(d)(2)(B), Mar. 23, 2010, 124 Stat. 803; Pub. L. 112-34, title I, §106(c), Sept. 30, 2011, 125 Stat. 377.)

REFERENCES IN TEXT

The Adoption and Safe Families Act of 1997, referred to in subsec. (a)(2)(C)(ii), is Pub. L. 105-89, Nov. 19, 1997, 111 Stat. 2115. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1305 of this title and Tables.

Division A of subchapter XX, referred to in subsec. (b)(2), was in the original a reference to subtitle 1 of title XX, which was translated as if referring to subtitle A of title XX of the Social Security Act, to reflect the probable intent of Congress. Title XX of the Act, enacting subchapter XX of this chapter, does not contain a subtitle 1.

AMENDMENTS

2011—Subsec. (a)(8). Pub. L. 112-34 inserted “, and shall document how such amounts are spent, including on post-adoption services” before the period.

2010—Subsec. (b)(2). Pub. L. 111-148 inserted “division A of” before “subchapter XX”.

2008—Pub. L. 110-351, §101(c)(5), inserted “and guardianship” after “Adoption” in section catchline.

Subsec. (a)(2)(A). Pub. L. 110-351, §402(1)(A)(i), substituted “if—” for “if the child—” in introductory provisions, inserted cl. (i) designation and introductory provisions, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and substituted “subsection (c)(1)” for “subsection (c)” in subcl. (II), redesignated former subcls. (I) to (III) of cl. (i) as items (aa) to (cc), respectively, of cl. (i)(I), redesignated former items (aa) and (bb) of cl. (i)(I) as

subitems (AA) and (BB), respectively, of cl. (i)(I)(aa) and substituted “subitem (AA) of this item” for “item (aa) of this subclause” in subitem (BB), realigned margins, and added cl. (ii).

Subsec. (a)(2)(C). Pub. L. 110-351, § 402(1)(A)(ii), substituted “if—” for “if the child—” in introductory provisions, inserted cl. (i) designation and introductory provisions, redesignated former cls. (i) to (iv) as subcls. (I) to (IV), respectively, of cl. (i) and substituted “subparagraph (A)(i)(II)” for “subparagraph (A)(ii)” in subcl. (I) and “subparagraph (A)(i)” for “subparagraph (A)” in subcl. (IV), redesignated former subcls. (I) and (II) of cl. (iii) as items (aa) and (bb), respectively, of cl. (i)(III), redesignated former subcls. (I) and (II) of cl. (iv) as items (aa) and (bb), respectively, of cl. (i)(IV), realigned margins, and added cl. (ii).

Subsec. (a)(2)(D). Pub. L. 110-351, § 101(c)(1), added subpar. (D).

Subsec. (a)(4). Pub. L. 110-351, § 201(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.”

Subsec. (a)(7), (8). Pub. L. 110-351, § 402(1)(B), added pars. (7) and (8).

Subsec. (b)(3)(C). Pub. L. 110-351, § 101(f), added subpar. (C).

Subsec. (c). Pub. L. 110-351, § 402(2), substituted “this section—” for “this section, a child shall not be considered a child with special needs unless—” in introductory provisions, inserted par. (1) designation and introductory provisions, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), realigned margins, and added par. (2).

Subsec. (d). Pub. L. 110-351, § 101(b), added subsec. (d).

Subsec. (e). Pub. L. 110-351, § 402(3), added subsec. (e).

2006—Subsec. (a)(2). Pub. L. 109-171 amended par. (2) generally. Prior to amendment, par. (2) contained provisions relating to criteria used for determining whether a child met the requirements of par. (2) for purposes of par. (1)(B)(ii).

1997—Subsec. (a)(2). Pub. L. 105-89 inserted at end “Any child who meets the requirements of subparagraph (C), who was determined eligible for adoption assistance payments under this part with respect to a prior adoption, who is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child’s adoptive parents have died, and who fails to meet the requirements of subparagraphs (A) and (B) but would meet such requirements if the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part and the prior adoption were treated as never having occurred, shall be treated as meeting the requirements of this paragraph for purposes of paragraph (1)(B)(ii).”

Pub. L. 105-33, § 5513(b)(3), substituted “July 16, 1996” for “June 1, 1995” wherever appearing.

Subsec. (b)(1). Pub. L. 105-33, § 5513(b)(4), substituted “July 16, 1996” for “June 1, 1995”.

1996—Subsec. (a)(2)(A)(i). Pub. L. 104-193, § 108(d)(5)(A), inserted “(as such sections were in effect on June 1, 1995)” after “section 607 of this title”, “(as so in effect)” after “specified in section 606(a) of this title”,

and “(as such section was in effect on June 1, 1995)” after “603”.

Subsec. (a)(2)(B)(i). Pub. L. 104-193, § 108(d)(5)(B), inserted “would have” before “received aid under the State plan” and “(as in effect on June 1, 1995)” after “602 of this title”.

Subsec. (a)(2)(B)(ii)(II). Pub. L. 104-193, § 108(d)(5)(C), inserted “(as in effect on June 1, 1995)” after “606(a) of this title”.

Subsec. (b). Pub. L. 104-193, § 108(d)(6), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child—

“(1)(A) who is a child described in subsection (a)(2) of this section, and

“(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

“(2) with respect to whom foster care maintenance payments are being made under section 672 of this title,

shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter in the State where such child resides. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 675(4)(B) of this title, shall be considered a child with respect to whom foster care maintenance payments are being made under section 672 of this title.”

1994—Subsec. (a)(6)(B). Pub. L. 103-432, § 266(a), substituted “section 674(a)(3)(E) of this title” for “section 674(a)(3)(C) of this title”.

Pub. L. 103-432, § 265(b), substituted “section 674(a)(3)(C) of this title” for “section 674(a)(3)(B) of this title”.

1987—Subsec. (a)(2). Pub. L. 100-203, § 9139(b), made technical amendment to Pub. L. 99-603. See 1986 Amendment note below.

Subsec. (a)(2)(A)(iii). Pub. L. 100-203, § 9133(b)(3)(A), added cl. (iii).

Subsec. (a)(2)(B)(iii). Pub. L. 100-203, § 9133(b)(3)(B), inserted “or (A)(iii)” after “(A)(ii)”.

Subsec. (b). Pub. L. 100-203, § 9133(b)(4), inserted sentence at end.

1986—Subsec. (a)(2). Pub. L. 99-603, as amended Pub. L. 100-203, § 9139(b), inserted at end “The last sentence of section 672(a) of this title shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.”

Pub. L. 99-514, § 1711(a), substituted par. (1) and introductory text of par. (2) for former introductory text of par. (1) which read as follows: “Each State with a plan approved under this part shall, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (2) of this subsection to parents who, after June 17, 1980, adopt a child who—”. Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 99-514, § 1711(a)(1), (c)(3), redesignated par. (2) as (3), substituted “payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B)” for “adoption assistance payments”, and inserted “made under clause (ii) of paragraph (1)(B)”. Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 99-514, § 1711(a)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 99-514, § 1711(a)(1), (c)(4), redesignated par. (4) as (5) and substituted “in accordance with applicable State and local law shall be eligible for such payments” for “, pursuant to an interlocutory de-

cree, shall be eligible for adoption assistance payments under this subsection”.

Subsec. (a)(6). Pub. L. 99-514, §1711(b), added par. (6).
 Subsec. (b). Pub. L. 99-272, §12305(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For purposes of subchapters XIX and XX of this chapter, any child with respect to whom adoption assistance payments are made under this section shall be deemed to be a dependent child as defined in section 606 of this title and shall be deemed to be a recipient of aid to families with dependent children under part A of this subchapter.”

Subsec. (b)(1)(A). Pub. L. 99-514, §1711(c)(5), substituted “subsection (a)(2)” for “subsection (a)(1)”.

Subsec. (c)(2). Pub. L. 99-272, §12305(b)(1), substituted “without providing adoption assistance under this section or medical assistance under subchapter XIX of this chapter” for “without providing adoption assistance”, and inserted “or medical assistance under subchapter XIX of this chapter” after “appropriate adoptive parents without providing adoption assistance under this section”.

1980—Subsec. (a)(1). Pub. L. 96-272, §102(a)(3), inserted references to voluntary placement agreements in subpars. (A)(i) and (B)(i), (ii).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201(c) of Pub. L. 110-351 effective Oct. 1, 2010, see section 201(d) of Pub. L. 110-351, set out as a note under section 672 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1997 AMENDMENTS

Section 307(b) of Pub. L. 105-89 provided that: “The amendment made by subsection (a) [amending this section] shall only apply to children who are adopted on or after October 1, 1997.”

Amendment by Pub. L. 105-33 effective as if included in section 108 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, at the time such section 108 became law, see section 5518(b) of Pub. L. 105-33, set out as a note under section 652 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 265(d) of Pub. L. 103-432 provided that: “Each amendment made by this section [amending this section and sections 608 and 675 of this title] shall take effect as if the amendment had been included in the provision of OBRA-1989 [Pub. L. 101-239] to which the amendment relates, at the time the provision became law.”

Section 266(b) of Pub. L. 103-432 provided that: “The amendment made by this section [amending this section] shall take effect as if the amendment had been included in the provision of OBRA-1993 [Pub. L. 103-66] to which the amendment relates, at the time the provision became law.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 9133(b)(3), (4) of Pub. L. 100-203 effective Apr. 1, 1988, see section 9133(c) of Pub. L. 100-203, set out as a note under section 672 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable only with respect to expenditures made after Dec. 31, 1986, see section 1711(d) of Pub. L. 99-514, set out as a note under section 670 of this title.

Section 12305(c) of Pub. L. 99-272 provided that: “The amendments made by this section [amending this section and sections 675 and 1396a of this title] shall apply to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after the date of the enactment of this Act [Apr. 7, 1986].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 102(a)(3) of Pub. L. 96-272 effective only with respect to expenditures made after Sept. 30, 1979, see section 102(c) of Pub. L. 96-272, set out as a note under section 672 of this title.

§ 673a. Interstate compacts

The Secretary of Health and Human Services shall take all possible steps to encourage and assist the various States to enter into interstate compacts (which are hereby approved by the Congress) under which the interests of any adopted child with respect to whom an adoption assistance agreement has been entered into by a State under section 673 of this title will be adequately protected, on a reasonable and equitable basis which is approved by the Secretary, if and when the child and his or her adoptive parent (or parents) move to another State.

(Pub. L. 96-272, title I, §101(a)(4)(B), June 17, 1980, 94 Stat. 512.)

CODIFICATION

Section was enacted as part of the Adoption Assistance and Child Welfare Act of 1980, and not as part of the Social Security Act which comprises this chapter.

CHANGE OF NAME

“Secretary of Health and Human Services” was substituted for “Secretary of Health, Education, and Welfare” in text, pursuant to Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, which is classified to section 3508(b) of Title 20, Education.

§ 673b. Adoption incentive payments

(a) Grant authority

Subject to the availability of such amounts as may be provided in advance in appropriations Acts for this purpose, the Secretary shall make a grant to each State that is an incentive-eligible State for a fiscal year in an amount equal to

the adoption incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

(b) Incentive-eligible State

A State is an incentive-eligible State for a fiscal year if—

- (1) the State has a plan approved under this part for the fiscal year;
- (2)(A) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;
- (B) the number of older child adoptions in the State during the fiscal year exceeds the base number of older child adoptions for the State for the fiscal year; or
- (C) the State's foster child adoption rate for the fiscal year exceeds the highest ever foster child adoption rate determined for the State;
- (3) the State is in compliance with subsection (c) of this section for the fiscal year;
- (4) the State provides health insurance coverage to any child with special needs (as determined under section 673(c) of this title) for whom there is in effect an adoption assistance agreement between a State and an adoptive parent or parents; and
- (5) the fiscal year is any of fiscal years 2008 through 2012.

(c) Data requirements

(1) In general

A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2)—

- (A) for fiscal years 1995 through 1997 (or, if the first fiscal year for which the State seeks a grant under this section is after fiscal year 1998, the fiscal year that precedes such first fiscal year); and
- (B) for each succeeding fiscal year that precedes the fiscal year.

(2) Determination of numbers of adoptions based on AFCARS data

The Secretary shall determine the numbers of foster child adoptions, of special needs adoptions that are not older child adoptions, and of older child adoptions in a State during a fiscal year, and the foster child adoption rate for the State for the fiscal year, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 679 of this title, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.

(3) No waiver of AFCARS requirements

This section shall not be construed to alter or affect any requirement of section 679 of this title or of any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with such a requirement.

(d) Adoption incentive payment

(1) In general

Except as provided in paragraphs (2) and (3), the adoption incentive payment payable to a

State for a fiscal year under this section shall be equal to the sum of—

- (A) \$4,000, multiplied by the amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;
- (B) \$4,000, multiplied by the amount (if any) by which the number of special needs adoptions that are not older child adoptions in the State during the fiscal year exceeds the base number of special needs adoptions that are not older child adoptions for the State for the fiscal year; and
- (C) \$8,000, multiplied by the amount (if any) by which the number of older child adoptions in the State during the fiscal year exceeds the base number of older child adoptions for the State for the fiscal year.

(2) Pro rata adjustment if insufficient funds available

For any fiscal year, if the total amount of adoption incentive payments otherwise payable under paragraph (1) for a fiscal year exceeds the amount appropriated pursuant to subsection (h) for the fiscal year, the amount of the adoption incentive payment payable to each State under paragraph (1) for the fiscal year shall be—

- (A) the amount of the adoption incentive payment that would otherwise be payable to the State under paragraph (1) for the fiscal year; multiplied by
- (B) the percentage represented by the amount so appropriated for the fiscal year, divided by the total amount of adoption incentive payments otherwise payable under paragraph (1) for the fiscal year.

(3) Increased incentive payment for exceeding the highest ever foster child adoption rate

(A) In general

If—

- (i) for fiscal year 2009 or any fiscal year thereafter the total amount of adoption incentive payments payable under paragraph (1) of this subsection are less than the amount appropriated under subsection (h) for the fiscal year; and
- (ii) a State's foster child adoption rate for that fiscal year exceeds the highest ever foster child adoption rate determined for the State,

then the adoption incentive payment otherwise determined under paragraph (1) of this subsection for the State shall be increased, subject to subparagraph (C) of this paragraph, by the amount determined for the State under subparagraph (B) of this paragraph.

(B) Amount of increase

For purposes of subparagraph (A), the amount determined under this subparagraph with respect to a State and a fiscal year is the amount equal to the product of—

- (i) \$1,000; and
- (ii) the excess of—
 - (I) the number of foster child adoptions in the State in the fiscal year; over

(II) the product (rounded to the nearest whole number) of—

(aa) the highest ever foster child adoption rate determined for the State; and

(bb) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(C) Pro rata adjustment if insufficient funds available

For any fiscal year, if the total amount of increases in adoption incentive payments otherwise payable under this paragraph for a fiscal year exceeds the amount available for such increases for the fiscal year, the amount of the increase payable to each State under this paragraph for the fiscal year shall be—

(i) the amount of the increase that would otherwise be payable to the State under this paragraph for the fiscal year; multiplied by

(ii) the percentage represented by the amount so available for the fiscal year, divided by the total amount of increases otherwise payable under this paragraph for the fiscal year.

(e) 24-month availability of incentive payments

Payments to a State under this section in a fiscal year shall remain available for use by the State for the 24-month period beginning with the month in which the payments are made.

(f) Limitations on use of incentive payments

A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B of this subchapter or this part. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 624, 629d, and 674 of this title.

(g) Definitions

As used in this section:

(1) Foster child adoption

The term “foster child adoption” means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

(2) Special needs adoption

The term “special needs adoption” means the final adoption of a child for whom an adoption assistance agreement is in effect under section 673 of this title.

(3) Base number of foster child adoptions

The term “base number of foster child adoptions for a State” means, with respect to any fiscal year, the number of foster child adoptions in the State in fiscal year 2007.

(4) Base number of special needs adoptions that are not older child adoptions

The term “base number of special needs adoptions that are not older child adoptions for a State” means, with respect to any fiscal

year, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2007.

(5) Base number of older child adoptions

The term “base number of older child adoptions for a State” means, with respect to any fiscal year, the number of older child adoptions in the State in fiscal year 2007.

(6) Older child adoptions

The term “older child adoptions” means the final adoption of a child who has attained 9 years of age if—

(A) at the time of the adoptive placement, the child was in foster care under the supervision of the State; or

(B) an adoption assistance agreement was in effect under section 673 of this title with respect to the child.

(7) Highest ever foster child adoption rate

The term “highest ever foster child adoption rate” means, with respect to any fiscal year, the highest foster child adoption rate determined for any fiscal year in the period that begins with fiscal year 2002 and ends with the preceding fiscal year.

(8) Foster child adoption rate

The term “foster child adoption rate” means, with respect to a State and a fiscal year, the percentage determined by dividing—

(A) the number of foster child adoptions finalized in the State during the fiscal year; by

(B) the number of children in foster care under the supervision of the State on the last day of the preceding fiscal year.

(h) Limitations on authorization of appropriations

(1) In general

For grants under subsection (a) of this section, there are authorized to be appropriated to the Secretary—

(A) \$20,000,000 for fiscal year 1999;

(B) \$43,000,000 for fiscal year 2000;

(C) \$20,000,000 for each of fiscal years 2001 through 2003; and

(D) \$43,000,000 for each of fiscal years 2004 through 2013.

(2) Availability

Amounts appropriated under paragraph (1), or under any other law for grants under subsection (a) of this section, are authorized to remain available until expended, but not after fiscal year 2013.

(i) Technical assistance

(1) In general

The Secretary may, directly or through grants or contracts, provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

(2) Description of the character of the technical assistance

The technical assistance provided under paragraph (1) may support the goal of encour-

aging more adoptions out of the foster care system, when adoptions promote the best interests of children, and may include the following:

(A) The development of best practice guidelines for expediting termination of parental rights.

(B) Models to encourage the use of concurrent planning.

(C) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(D) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(E) Models to encourage the fast tracking of children who have not attained 1 year of age into pre-adoptive placements.

(F) Development of programs that place children into pre-adoptive families without waiting for termination of parental rights.

(3) Targeting of technical assistance to the courts

Not less than 50 percent of any amount appropriated pursuant to paragraph (4) shall be used to provide technical assistance to the courts.

(4) Limitations on authorization of appropriations

To carry out this subsection, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 2004 through 2006.

(Aug. 14, 1935, ch. 531, title IV, §473A, as added Pub. L. 105-89, title II, §201(a), Nov. 19, 1997, 111 Stat. 2122; amended Pub. L. 105-200, title IV, §410(f), July 16, 1998, 112 Stat. 673; Pub. L. 106-169, title I, §131, Dec. 14, 1999, 113 Stat. 1830; Pub. L. 108-145, §3(a), Dec. 2, 2003, 117 Stat. 1879; Pub. L. 109-288, §6(f)(7), Sept. 28, 2006, 120 Stat. 1248; Pub. L. 110-351, title IV, §401, Oct. 7, 2008, 122 Stat. 3973.)

AMENDMENTS

2008—Subsec. (b)(2)(C). Pub. L. 110-351, §401(e)(3)(A), added subpar. (C).

Subsec. (b)(4). Pub. L. 110-351, §401(a)(1), struck out “in the case of fiscal years 2001 through 2007,” before “the State provides”.

Subsec. (b)(5). Pub. L. 110-351, §401(a)(2), substituted “2008 through 2012” for “1998 through 2007”.

Subsec. (c)(2). Pub. L. 110-351, §401(a)(3), (e)(3)(B), substituted “during a fiscal year, and the foster child adoption rate for the State for the fiscal year,” for “during each of fiscal years 2002 through 2007”.

Subsec. (d)(1). Pub. L. 110-351, §401(e)(1)(A), substituted “paragraphs (2) and (3)” for “paragraph (2)” in introductory provisions.

Subsec. (d)(1)(B). Pub. L. 110-351, §401(c)(1), substituted “\$4,000” for “\$2,000”.

Subsec. (d)(1)(C). Pub. L. 110-351, §401(c)(2), substituted “\$8,000” for “\$4,000”.

Subsec. (d)(2). Pub. L. 110-351, §401(e)(1)(B), substituted “paragraph (1)” for “this section” wherever appearing.

Subsec. (d)(3). Pub. L. 110-351, §401(e)(1)(C), added par. (3).

Subsec. (e). Pub. L. 110-351, §401(d), substituted “24-month” for “2-year” in heading and “for the 24-month period beginning with the month in which the pay-

ments are made” for “through the end of the succeeding fiscal year” in text.

Subsec. (g)(3). Pub. L. 110-351, §401(b)(1), substituted “means, with respect to any fiscal year, the number of foster child adoptions in the State in fiscal year 2007.” for “means—

“(A) with respect to fiscal year 2003, the number of foster child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”

Subsec. (g)(4). Pub. L. 110-351, §401(b)(2), inserted “that are not older child adoptions” before “for a State” and substituted “means, with respect to any fiscal year, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2007.” for “means—

“(A) with respect to fiscal year 2003, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of special needs adoptions that are not older child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”

Subsec. (g)(5). Pub. L. 110-351, §401(b)(3), substituted “means, with respect to any fiscal year, the number of older child adoptions in the State in fiscal year 2007.” for “means—

“(A) with respect to fiscal year 2003, the number of older child adoptions in the State in fiscal year 2002; and

“(B) with respect to any subsequent fiscal year, the number of older child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 2002 and ends with the fiscal year preceding that subsequent fiscal year.”

Subsec. (g)(7), (8). Pub. L. 110-351, §401(e)(2), added pars. (7) and (8).

Subsec. (h)(1)(D), (2). Pub. L. 110-351, §401(a)(4), substituted “2013” for “2008”.

2006—Subsec. (f). Pub. L. 109-288 substituted “624” for “623”.

2003—Subsec. (b)(2). Pub. L. 108-145, §3(a)(1)(A), added par. (2) and struck out former par. (2) which read as follows: “the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;”

Subsec. (b)(4). Pub. L. 108-145, §3(a)(1)(B), substituted “through 2007” for “and 2002”.

Subsec. (b)(5). Pub. L. 108-145, §3(a)(1)(C), substituted “2007” for “2002”.

Subsec. (c)(2). Pub. L. 108-145, §3(a)(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

“(A) DETERMINATIONS BASED ON AFCARS DATA.—Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1995 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 679 of this title, as reported by the State and approved by the Secretary by August 1 of the succeeding fiscal year.

“(B) ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEARS 1995 THROUGH 1997.—For purposes of the determination described in subparagraph (A) for fiscal years 1995 through 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by April 30, 1998, and approved by the Secretary by July 1, 1998.”

Subsec. (d)(1). Pub. L. 108-145, §3(a)(3), inserted “that are not older child adoptions” after “adoptions” in two places in subpar. (B) and added subpar. (C).

2003—Subsec. (g)(3)(A), (B). Pub. L. 108-145, §3(a)(4)(A), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) with respect to fiscal year 1998, the average number of foster child adoptions in the State in fiscal years 1995, 1996, and 1997; and

“(B) with respect to any subsequent fiscal year, the number of foster child adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.”

Subsec. (g)(4). Pub. L. 108-145, §3(a)(4)(B), inserted “that are not older child adoptions” after “adoptions” in heading, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which read as follows:

“(A) with respect to fiscal year 1998, the average number of special needs adoptions in the State in fiscal years 1995, 1996, and 1997; and

“(B) with respect to any subsequent fiscal year, the number of special needs adoptions in the State in the fiscal year for which the number is the greatest in the period that begins with fiscal year 1997 and ends with the fiscal year preceding such subsequent fiscal year.”

Subsec. (g)(5), (6). Pub. L. 108-145, §3(a)(4)(C), added pars. (5) and (6).

Subsec. (h)(1)(D). Pub. L. 108-145, §3(a)(5)(A), added subpar. (D).

Subsec. (h)(2). Pub. L. 108-145, §3(a)(5)(B), inserted “, or under any other law for grants under subsection (a) of this section,” after “(1)” and substituted “2008” for “2003”.

Subsec. (i)(4). Pub. L. 108-145, §3(a)(6), substituted “2004 through 2006” for “1998 through 2000”.

Subsec. (j). Pub. L. 108-145, §3(a)(7), struck out subsec. (j) which related to supplemental grants.

1999—Subsec. (h)(1). Pub. L. 106-169, §131(b), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “For grants under subsection (a) of this section, there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 1999 through 2003.”

Subsec. (j). Pub. L. 106-169, §131(a), added subsec. (j).

1998—Subsec. (c)(2)(B). Pub. L. 105-200 substituted “April 30, 1998” for “November 30, 1997” and “July 1, 1998” for “March 1, 1998”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after such date, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-145, §5, Dec. 2, 2003, 117 Stat. 1882, provided that: “The amendments made by this Act [amending this section and section 674 of this title] shall take effect on October 1, 2003.”

EFFECTIVE DATE

Section effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as an Effective Date of 1997 Amendment note under section 622 of this title.

FINDINGS

Pub. L. 108-145, §2, Dec. 2, 2003, 117 Stat. 1879, provided that: “The Congress finds the following:

“(1) In 1997, the Congress passed the Adoption and Safe Families Act of 1997 [Pub. L. 105-89; see Short Title of 1997 Amendment note set out under section 1305 of this title] to promote comprehensive child welfare reform to ensure that consideration of children’s safety is paramount in child welfare decisions, and to provide a greater sense of urgency to find every child a safe, permanent home.

“(2) The Adoption and Safe Families Act of 1997 also created the Adoption Incentives program, which authorizes incentive payments to States to promote adoptions, with additional incentives provided for the adoption of foster children with special needs.

“(3) Since 1997, all States, the District of Columbia, and Puerto Rico have qualified for incentive payments for their work in promoting adoption of foster children.

“(4) Between 1997 and 2002, adoptions increased by 64 percent, and adoptions of children with special needs increased by 63 percent; however, 542,000 children remain in foster care, and 126,000 are eligible for adoption.

“(5) Although substantial progress has been made to promote adoptions, attention should be focused on promoting adoption of older children. Recent data suggest that half of the children waiting to be adopted are age 9 or older.”

§ 673c. Repealed. Pub. L. 109-239, §4(c), July 3, 2006, 120 Stat. 512

Section, act Aug. 14, 1935, ch. 531, title IV, §473B, as added Pub. L. 109-239, §4(b), July 3, 2006, 120 Stat. 510, related to timely interstate home study incentive payments.

EFFECTIVE DATE OF REPEAL

Pub. L. 109-239, §4(c), July 3, 2006, 120 Stat. 512, provided that the repeal of this section is effective Oct. 1, 2010.

§ 674. Payments to States

(a) Amounts

For each quarter beginning after September 30, 1980, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

(1) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as foster care maintenance payments under section 672 of this title for children in foster family homes or child-care institutions (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the “tribal FMAP”) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(2) an amount equal to the Federal medical assistance percentage (which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia) of the total amount expended during such quarter as adoption assistance payments under section 673 of this title pursuant to adoption assistance agreements (or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the "tribal FMAP")) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State); plus

(3) subject to section 672(i) of this title an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents or relative guardians, the members of the staff of State-licensed or State-approved child care institutions providing care, or State-licensed or State-approved child welfare agencies providing services, to children receiving assistance under this part, and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts, in ways that increase the ability of such current or prospective parents, guardians, staff members, institutions, attorneys, and advocates to provide support and assistance to foster and adopted children and children living with relative guardians, whether incurred directly by the State or by contract,

(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

(i) meet the requirements imposed by regulations promulgated pursuant to section 679(b)(2) of this title;

(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A of this subchapter (for the purposes of facilitating verification of eligibility of foster children); and

(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B of this subchapter or this part; and

(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

(E) one-half of the remainder of such expenditures; plus

(4) an amount equal to the amount (if any) by which—

(A) the lesser of—

(i) 80 percent of the amounts expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 677(b) of this title for the period in which the quarter occurs (including any amendment that meets the requirements of section 677(b)(5) of this title); or

(ii) the amount allotted to the State under section 677(c)(1) of this title for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year; exceeds

(B) the total amount of any penalties assessed against the State under section 677(e) of this title during the fiscal year in which the quarter occurs; plus

(5) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 673(d) of this title pursuant to kinship guardianship assistance agreements.

(b) Quarterly estimates of State's entitlement for next quarter; payments; United States' pro rata share of amounts recovered as overpayment; allowance, disallowance, or deferral of claim

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be ex-

pending in such quarter in accordance with subsection (a) of this section, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a) of this section, the Secretary shall allow, disallow, or defer such claim.

(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

(I) upon completion of the review, if it is determined that the claim is not allowable; or

(II) on the basis of findings of an audit or financial management review.

(c) Automated data collection expenditures

The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C) of this section, without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

(d) Reduction for violation of plan requirement

(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1320a-2a of this title, or otherwise, to have violated paragraph (18) or (23) of section 671(a) of this title with respect to a person or to

have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1320a-2a(b)(3) of this title, the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1320a-2a of this title, to have implemented a corrective action plan with respect to such violation, by—

(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

(2) Any other entity which is in a State that receives funds under this part and which violates paragraph (18) or (23) of section 671(a) of this title during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

(3)(A) Any individual who is aggrieved by a violation of section 671(a)(18) of this title by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978 [25 U.S.C. 1901 et seq.].

(e) Discretionary grants for educational and training vouchers for youths aging out of foster care

From amounts appropriated pursuant to section 677(h)(2) of this title, the Secretary may make a grant to a State with a plan approved under this part, for a calendar quarter, in an amount equal to the lesser of—

(1) 80 percent of the amounts expended by the State during the quarter to carry out programs for the purposes described in section 677(a)(6) of this title; or

(2) the amount, if any, allotted to the State under section 677(c)(3) of this title for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this subsection for such purposes for all prior quarters in the fiscal year.

(f) Reduction for failure to submit required data

(1) If the Secretary finds that a State has failed to submit to the Secretary data, as required by regulation, for the data collection system implemented under section 679 of this title, the Secretary shall, within 30 days after the

date by which the data was due to be so submitted, notify the State of the failure and that payments to the State under this part will be reduced if the State fails to submit the data, as so required, within 6 months after the date the data was originally due to be so submitted.

(2) If the Secretary finds that the State has failed to submit the data, as so required, by the end of the 6-month period referred to in paragraph (1) of this subsection, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1320a-2a(b)(3) of this title, the Secretary shall reduce the amounts otherwise payable to the State under this part, for each quarter ending in the 6-month period (and each quarter ending in each subsequent consecutively occurring 6-month period until the Secretary finds that the State has submitted the data, as so required), by—

(A) $\frac{1}{4}$ of 1 percent of the total amount expended by the State for administration of foster care activities under the State plan approved under this part in the quarter so ending, in the case of the 1st 6-month period during which the failure continues; or

(B) $\frac{1}{4}$ of 1 percent of the total amount so expended, in the case of the 2nd or any subsequent such 6-month period.

(g) Continued services under waiver

For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State under section 1320a-9 of this title, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.

(Aug. 14, 1935, ch. 531, title IV, §474, as added Pub. L. 96-272, title I, §101(a)(1), June 17, 1980, 94 Stat. 506; amended Pub. L. 96-611, §3, Dec. 28, 1980, 94 Stat. 3567; Pub. L. 98-369, div. B, title VI, §2663(c)(18), July 18, 1984, 98 Stat. 1167; Pub. L. 98-617, §4(a), (b), Nov. 8, 1984, 98 Stat. 3296, 3297; Pub. L. 99-272, title XII, §§12306(a), (b), 12307(c), Apr. 7, 1986, 100 Stat. 294, 296; Pub. L. 99-514, title XVIII, §1883(b)(9), Oct. 22, 1986, 100 Stat. 2917; Pub. L. 100-203, title IX, §9132(a), Dec. 22, 1987, 101 Stat. 1330-313; Pub. L. 101-239, title VIII, §§8001(a), 8002(c), 8006(a), title X, §§10401(a), 10402(a), 10403(c)(1), Dec. 19, 1989, 103 Stat. 2452, 2453, 2461, 2487, 2488; Pub. L. 101-508, title V, §5071(a), Nov. 5, 1990, 104 Stat. 1388-233; Pub. L. 103-66, title XIII, §13713(a)(1), (2), (b)(1), Aug. 10, 1993, 107 Stat. 656, 657; Pub. L. 103-432, title II, §§207(a), (b), 210(a), Oct. 31, 1994, 108 Stat. 4457, 4460; Pub. L. 104-188, title I, §1808(b), Aug. 20, 1996, 110 Stat. 1903; Pub. L. 105-89, title II, §202(b), Nov. 19, 1997, 111 Stat. 2125; Pub. L. 105-200, title III, §301(b), (c), title IV, §410(g), July 16, 1998, 112 Stat. 658, 674; Pub. L. 106-169, title I, §101(c), Dec. 14, 1999, 113 Stat. 1828; Pub. L. 107-133, title II, §201(f), Jan. 17, 2002, 115 Stat. 2424; Pub. L. 108-145, §4, Dec. 2, 2003, 117 Stat. 1881; Pub. L. 109-171, title VII, §7403(b), Feb. 8, 2006, 120 Stat. 151; Pub. L. 110-275, title III, §302(a), July 15, 2008, 122 Stat. 2594; Pub. L. 110-351, title I, §101(c)(3), (d), title II, §203(a),

title III, §301(c)(2), Oct. 7, 2008, 122 Stat. 3952, 3953, 3959, 3970.)

REFERENCES IN TEXT

The Indian Child Welfare Act of 1978, referred to in subsec. (d)(4), is Pub. L. 95-608, Nov. 8, 1978, 92 Stat. 3069, as amended, which is classified principally to chapter 21 (§1901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 25 and Tables.

AMENDMENTS

2008—Subsec. (a)(1), (2). Pub. L. 110-351, §301(c)(2), inserted “(or, with respect to such payments made during such quarter under a cooperative agreement or contract entered into by the State and an Indian tribe, tribal organization, or tribal consortium for the administration or payment of funds under this part, an amount equal to the Federal medical assistance percentage that would apply under section 679c(d) of this title (in this paragraph referred to as the ‘tribal FMAP’) if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State)” before semicolon.

Pub. L. 110-275 substituted “(which shall be as defined in section 1396d(b) of this title, in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia)” for “(as defined in section 1396d(b) of this title)”.

Subsec. (a)(3)(B). Pub. L. 110-351, §203(a), inserted “or relative guardians” after “adoptive parents”, substituted “, the members” for “and the members”, inserted “, or State-licensed or State-approved child welfare agencies providing services,” after “providing care”, struck out “foster and adopted” before “children receiving assistance”, inserted “and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts,” after “part,”, inserted “guardians,” before “staff members,”, substituted “institutions, attorneys, and advocates” for “and institutions”, and inserted “and children living with relative guardians” before “, whether incurred directly”.

Subsec. (a)(4). Pub. L. 110-351, §101(c)(3)(A), substituted “; plus” for period at end.

Subsec. (a)(5). Pub. L. 110-351, §101(c)(3)(B), added par. (5).

Subsec. (g). Pub. L. 110-351, §101(d), added subsec. (g).

2006—Subsec. (a)(3). Pub. L. 109-171 inserted “subject to section 672(i) of this title” before “an amount equal to” in introductory provisions.

2003—Subsec. (f). Pub. L. 108-145 added subsec. (f).

2002—Subsec. (a)(4). Pub. L. 107-133, §201(f)(1), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “the lesser of—

“(A) 80 percent of the amount (if any) by which—

“(i) the total amount expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 677(b) of this title for the period in which the quarter occurs (including any amendment that meets the requirements of section 677(b)(5) of this title); exceeds

“(ii) the total amount of any penalties assessed against the State under section 677(e) of this title during the fiscal year in which the quarter occurs; or

“(B) the amount allotted to the State under section 677 of this title for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year.”

Subsec. (e). Pub. L. 107-133, §201(f)(2), added subsec. (e).

1999—Subsec. (a)(4). Pub. L. 106-169 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “an amount equal to the sum of—

“(A) so much of the amounts expended by such State to carry out programs under section 677 of this title as do not exceed the basic amount for such State determined under section 677(e)(1) of this title; and

“(B) the lesser of—

“(i) one-half of any additional amounts expended by such State for such programs; or

“(ii) the maximum additional amount for such State under such section 677(e)(1) of this title.”

1998—Subsec. (a). Pub. L. 105-200, § 410(g), struck out “(subject to the limitations imposed by subsection (b) of this section)” after “this part” in introductory provisions.

Subsec. (d)(1), (2). Pub. L. 105-200, § 301(b), substituted “paragraph (18) or (23) of section 671(a) of this title” for “section 671(a)(18) of this title”.

Subsec. (e). Pub. L. 105-200, § 301(c), struck out subsec. (e) which read as follows: “Notwithstanding subsection (a) of this section, a State shall not be eligible for any payment under this section if the Secretary finds that, after November 19, 1997, the State has—

“(1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

“(2) failed to grant an opportunity for a fair hearing, as described in section 671(a)(12) of this title, to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by the State or not acted upon by the State with reasonable promptness.”

1997—Subsec. (e). Pub. L. 105-89 added subsec. (e).

1996—Subsec. (d). Pub. L. 104-188 added subsec. (d).

1994—Subsec. (b). Pub. L. 103-432, § 207(a), (b)(2), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to maximum aggregate sums payable to any State and State allotments for fiscal years 1981 to 1992.

Subsec. (b)(4). Pub. L. 103-432, § 210(a), added par. (4).

Subsec. (c). Pub. L. 103-432, § 207(a), (b)(2), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to reimbursement for expenditures.

Subsec. (d). Pub. L. 103-432, § 207(b)(2), redesignated subsec. (d) as (b).

Subsec. (d)(1). Pub. L. 103-432, § 207(b)(1), substituted “subsection (a) of this section for such quarter” for “subsections (a), (b), and (c) of this section for such quarter” and “subsection (a) of this section” for “the provisions of such subsections”.

Subsec. (e). Pub. L. 103-432, § 207(b)(2), redesignated subsec. (e) as (c).

1993—Subsec. (a)(3)(B). Pub. L. 103-66, § 13713(a)(1)(A), struck out “and” at end.

Subsec. (a)(3)(C). Pub. L. 103-66, § 13713(b)(1), substituted “50 percent” for “75 percent” in two places in introductory provisions.

Pub. L. 103-66, § 13713(a)(1)(C), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (a)(3)(D), (E). Pub. L. 103-66, § 13713(a)(1)(B), (C), added subpar. (D) and redesignated former subpar. (C) as (E).

Subsec. (e). Pub. L. 103-66, § 13713(a)(2), added subsec. (e).

1990—Subsec. (a)(3). Pub. L. 101-508 inserted “provision of child placement services and for the” before “proper and efficient”.

1989—Subsec. (a)(3)(B), (C). Pub. L. 101-239, § 8006(a), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(4). Pub. L. 101-239, § 8002(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “an amount for transitional independent living programs as provided in section 677 of this title.”

Subsec. (b)(1). Pub. L. 101-239, § 10403(c)(1), amended Pub. L. 98-617, § 4(a)(1), see 1984 Amendment note below.

Pub. L. 101-239, § 8001(a), substituted “through 1992” for “through 1989”.

Subsec. (b)(2)(A)(iv). Pub. L. 101-239, § 10402(a), added cl. (iv).

Subsec. (b)(2)(B). Pub. L. 101-239, § 10403(c)(1), amended Pub. L. 98-617, § 4(a)(1), see 1984 Amendment note below.

Pub. L. 101-239, § 8001(a), substituted “through 1992” for “through 1989”.

Subsec. (b)(4)(B). Pub. L. 101-239, § 10403(c)(1), amended Pub. L. 98-617, § 4(a)(1), see 1984 Amendment note below.

Pub. L. 101-239, § 8001(a), substituted “through 1992” for “through 1989”.

Subsec. (b)(5)(A). Pub. L. 101-239, § 8001(a), substituted “1992” for “1989” in introductory provisions and in cl. (ii).

Subsec. (c)(1), (2). Pub. L. 101-239, § 8001(a), substituted “through 1992” for “through 1989”.

Subsec. (c)(4)(B), (C). Pub. L. 101-239, § 10401(a), substituted “\$325,000,000” for “\$266,000,000”.

1987—Subsec. (b)(1), (2)(A)(iii), (B), (4)(B). Pub. L. 100-203, § 9132(a)(1), substituted “through 1989” for “through 1987”.

Subsec. (b)(5)(A). Pub. L. 100-203, § 9132(a)(1), (2), substituted “October 1, 1989” for “October 1, 1987” in introductory provisions and “through 1989” for “through 1987” in cl. (ii).

Subsec. (c)(1), (2). Pub. L. 100-203, § 9132(a)(3), substituted “through 1989” for “through 1987”.

1986—Subsec. (a)(3). Pub. L. 99-272, § 12307(c)(1), substituted “; plus” for period at end.

Subsec. (a)(4). Pub. L. 99-514 realigned margins of par. (4).

Pub. L. 99-272, § 12307(c)(2), added par. (4).

Subsec. (b)(1). Pub. L. 99-272, § 12306(a)(1), substituted “1987” for “1985”.

Subsec. (b)(2)(A). Pub. L. 99-272, § 12306(a)(2), substituted in cl. (iii) “each of the fiscal years 1983 through 1987” for “fiscal year 1983”, and struck out cls. (iv) and (v) relating to limitations with respect to fiscal years 1984 and 1985, respectively, if the appropriation for each of those years is equal to \$266,000,000.

Subsec. (b)(2)(B), (4)(B). Pub. L. 99-272, § 12306(a)(1), substituted “1987” for “1985”.

Subsec. (b)(5)(A). Pub. L. 99-272, § 12306(a)(3), substituted “October 1, 1987” for “October 1, 1985” in introductory provision, and in cl. (ii) substituted “1984 through 1987” for “1984 and 1985”.

Subsec. (c)(1), (2). Pub. L. 99-272, § 12306(b), substituted “1987” for “1985”.

1984—Subsec. (b)(1). Pub. L. 98-617, § 4(a)(1)(A), formerly § 4(a)(1), as redesignated and amended by Pub. L. 101-239, § 10403(c)(1), substituted “1985” for “1984” after “1981 through”.

Subsec. (b)(2)(A)(v). Pub. L. 98-617, § 4(a)(2), added cl. (v).

Subsec. (b)(2)(B). Pub. L. 98-617, § 4(a)(1)(B), formerly § 4(a)(1), as redesignated and amended by Pub. L. 101-239, § 10403(c)(1), substituted “1981 through 1985” for “1982 through 1984”.

Subsec. (b)(4)(A). Pub. L. 98-369, § 2663(c)(18)(A), substituted “subparagraph (C)” for “subparagraph (c)”.

Subsec. (b)(4)(B). Pub. L. 98-617, § 4(a)(1)(A), formerly § 4(a)(1), as redesignated and amended by Pub. L. 101-239, § 10403(c)(1), substituted “1985” for “1984” after “1981 through”.

Subsec. (b)(5)(A). Pub. L. 98-617, § 4(a)(3)(A), substituted “October 1, 1985” for “October 1, 1984”.

Subsec. (b)(5)(A)(ii). Pub. L. 98-617, § 4(a)(3)(B), substituted “each of fiscal years 1984 and 1985” for “fiscal year 1984”.

Subsec. (c)(1), (2). Pub. L. 98-617, § 4(b), substituted “1985” for “1984” after “1981 through”.

Pub. L. 98-369, § 2663(c)(18)(B), substituted “relevant” for “relvant”.

Subsec. (d)(1). Pub. L. 98-369, § 2663(c)(18)(C), substituted “and (C) such” for “and (c) such” and “Secretary may find” for “secretary may find”.

1980—Subsec. (d). Pub. L. 96-611 added subsec. (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(c)(2) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether imple-

menting regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

Pub. L. 110-275, title III, §302(b), July 15, 2008, 122 Stat. 2594, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply to calendar quarters beginning on or after that date.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-145 effective Oct. 1, 2003, see section 5 of Pub. L. 108-145, set out as a note under section 673b of this section.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-133 effective Jan. 17, 2002, with delay permitted if State legislation is required, see section 301 of Pub. L. 107-133, set out as a note under section 629 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 301(b), (c) of Pub. L. 105-200 effective as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997, Pub. L. 105-89, see section 301(d) of Pub. L. 105-200, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 207(c) of Pub. L. 103-432 provided that: “The amendments and repeals made by this section [amending this section] shall apply to payments for calendar quarters beginning on or after October 1, 1993.”

Section 210(b) of Pub. L. 103-432 provided that: “The amendment made by subsection (a) [amending this section] shall be effective with respect to claims made on or after the date of the enactment of this Act [Oct. 31, 1994].”

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13713(a)(3) of Pub. L. 103-66 provided that: “The amendments made by this subsection [amending this section] shall take effect on October 1, 1993.”

Section 13713(b)(2) of Pub. L. 103-66, as amended by Pub. L. 104-193, title V, §502, Aug. 22, 1996, 110 Stat. 2277, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to expenditures during fiscal years beginning on or after October 1, 1997.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5071(b) of Pub. L. 101-508 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990].”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 8001(b) of Pub. L. 101-239 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1989.”

Section 8002(e) of Pub. L. 101-239 provided that: “The amendments made by subsections (a), (b) and (c) [amending this section and section 677 of this title] shall take effect October 1, 1989.”

Section 8006(b) of Pub. L. 101-239, as amended by Pub. L. 103-66, title XIII, §13715, Aug. 10, 1993, 107 Stat. 657, provided that: “The amendments made by subsection (a) [amending this section] shall apply to expenditures made on or after October 1, 1989, and before October 1, 1992, and to expenditures made on or after October 1, 1993.”

Section 10401(b) of Pub. L. 101-239 provided that: “The amendments made by subsection (a) [amending this section and former sections 620 and 627 of this title] shall take effect on October 1, 1989.”

Section 10402(b) of Pub. L. 101-239 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1989.”

Section 10403(c)(2) of Pub. L. 101-239 provided that: “The amendment made by paragraph (1) of this subsection [amending this section] shall take effect as if included in section 4 of Public Law 98-617 at the time such section became law [enacted Nov. 8, 1974].”

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9132(b) of Pub. L. 100-203 provided that: “The amendments made by subsection (a) [amending this section] shall become effective October 1, 1987.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(c)(2) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

PHASE-IN

Pub. L. 110-351, title II, §203(b), Oct. 7, 2008, 122 Stat. 3959, provided that: “With respect to an expenditure described in section 474(a)(3)(B) of the Social Security Act [42 U.S.C. 674(a)(3)(B)] by reason of an amendment made by subsection (a) of this section [amending this section], in lieu of the percentage set forth in such section 474(a)(3)(B), the percentage that shall apply is—

- “(1) 55 percent, if the expenditure is made in fiscal year 2009;
- “(2) 60 percent, if the expenditure is made in fiscal year 2010;
- “(3) 65 percent, if the expenditure is made in fiscal year 2011; or
- “(4) 70 percent, if the expenditure is made in fiscal year 2012.”

§ 675. Definitions

As used in this part or part B of this subchapter:

- (1) The term “case plan” means a written document which includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 672(a)(1)¹ of this title.

¹ See References in Text note below.

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(C) The health and education records of the child, including the most recent information available regarding—

- (i) the names and addresses of the child's health and educational providers;
- (ii) the child's grade level performance;
- (iii) the child's school record;
- (iv) a record of the child's immunizations;
- (v) the child's known medical problems;
- (vi) the child's medications; and
- (vii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) Where appropriate, for a child age 16 or over, a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 673(d) of this title, a description of—

- (i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
- (ii) the reasons for any separation of siblings during placement;
- (iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;
- (iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;
- (v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has

chosen not to pursue adoption, documentation of the reasons therefor; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 7801 of title 20) to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) In cases where—

- (i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

(5) The term "case review system" means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, of the State in which the child has been placed, or of a private agency under contract with either such State, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship,

(C) with respect to each such child, (i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the

continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing shall determine whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; (ii) procedural safeguards shall be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;²

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law;²

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate

² So in original. The semicolon probably should be a comma.

the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

(i) at the option of the State, the child is being cared for by a relative;

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 671(a)(15)(B)(ii) of this title are required to be made with respect to the child;²

(F) a child shall be considered to have entered foster care on the earlier of—

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home;²

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard;²

(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 677 of this title, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law, and is as detailed as the child may elect;² and

(I) each child in foster care under the responsibility of the State who has attained 16 years of age receives without cost a copy of any consumer report (as defined in section 1681a(d) of title 15) pertaining to the child each year until the child is discharged from care, and receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report.

(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term "legal guardianship" means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decisionmaking. The term "legal guardian" means the caretaker in such a relationship.

(8)(A) Subject to subparagraph (B), the term "child" means an individual who has not attained 18 years of age.

(B) At the option of a State, the term shall include an individual—

(i)(I) who is in foster care under the responsibility of the State;

(II) with respect to whom an adoption assistance agreement is in effect under section 673 of this title if the child had attained 16 years of age before the agreement became effective; or

(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 673(d) of this title if the child had attained 16 years of age before the agreement became effective;

(ii) who has attained 18 years of age;

(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

(iv) who is—

(I) completing secondary education or a program leading to an equivalent credential;

(II) enrolled in an institution which provides post-secondary or vocational education;

(III) participating in a program or activity designed to promote, or remove barriers to, employment;

(IV) employed for at least 80 hours per month; or

(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(Aug. 14, 1935, ch. 531, title IV, §475, as added and amended Pub. L. 96-272, title I, §§101(a)(1), 102(a)(4), June 17, 1980, 94 Stat. 510, 514; Pub. L. 99-272, title XII, §§12305(b)(2), 12307(b), Apr. 7, 1986, 100 Stat. 293, 296; Pub. L. 99-514, title XVII,

§ 1711(c)(6), Oct. 22, 1986, 100 Stat. 2784; Pub. L. 100-203, title IX, § 9133(a), Dec. 22, 1987, 101 Stat. 1330-314; Pub. L. 100-647, title VIII, § 8104(e), Nov. 10, 1988, 102 Stat. 3797; Pub. L. 101-239, title VIII, § 8007(a), (b), Dec. 19, 1989, 103 Stat. 2462; Pub. L. 103-432, title II, §§ 206(a), (b), 209(a), (b), 265(c), Oct. 31, 1994, 108 Stat. 4457, 4459, 4469; Pub. L. 105-89, title I, §§ 101(b), 102(2), 103(a), (b), 104, 107, title III, § 302, Nov. 19, 1997, 111 Stat. 2117, 2118, 2120, 2121, 2128; Pub. L. 109-239, §§ 6-8(a), 11, 12, July 3, 2006, 120 Stat. 512-514; Pub. L. 109-288, § 10, Sept. 28, 2006, 120 Stat. 1255; Pub. L. 110-351, title I, § 101(c)(4), title II, §§ 201(a), 202, 204(a), Oct. 7, 2008, 122 Stat. 3952, 3957, 3959, 3960; Pub. L. 111-148, title II, § 2955(a), Mar. 23, 2010, 124 Stat. 352; Pub. L. 112-34, title I, § 106(a), (b), Sept. 30, 2011, 125 Stat. 377.)

REFERENCES IN TEXT

Section 672(a) of this title, referred to in par. (1)(A), was amended generally by Pub. L. 109-171, title VII, § 7404(a), Feb. 8, 2006, 120 Stat. 151, and, as so amended, provisions relating to a voluntary placement agreement or judicial determination made with respect to a child, which formerly appeared in subsec. (a)(1), are contained in subsec. (a)(2)(A).

AMENDMENTS

2011—Par. (1)(G)(i). Pub. L. 112-34, § 106(a)(1), substituted “each placement” for “the placement”.

Par. (1)(G)(ii)(I). Pub. L. 112-34, § 106(a)(2), inserted “each” before “placement”.

Par. (5)(I). Pub. L. 112-34, § 106(b), added subpar. (I).

2010—Par. (5)(H). Pub. L. 111-148 inserted “includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law,” after “employment services.”

2008—Par. (1)(C)(iv) to (viii). Pub. L. 110-351, § 204(a)(1)(A), redesignated cls. (v) to (viii) as (iv) to (vii), respectively, and struck out former cl. (iv) which read as follows: “assurances that the child’s placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;”.

Par. (1)(F). Pub. L. 110-351, § 101(c)(4), added subpar. (F).

Par. (1)(G). Pub. L. 110-351, § 204(a)(1)(B), added subpar. (G).

Par. (4)(A). Pub. L. 110-351, § 204(a)(2), in first sentence, substituted “reasonable” for “and reasonable” and inserted “, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement” before period at end.

Par. (5)(H). Pub. L. 110-351, § 202, added subpar. (H).

Par. (8). Pub. L. 110-351, § 201(a), added par. (8).

2006—Par. (1)(C). Pub. L. 109-239, § 7(1), in introductory provisions, substituted “The health” for “To the extent available and accessible, the health” and inserted “the most recent information available regarding” after “including”.

Par. (1)(E). Pub. L. 109-239, § 11, which directed amendment of subpar. (E) by inserting “to facilitate orderly and timely in-State and interstate placements” before the period, was executed by making the insertion before period at end of last sentence to reflect the probable intent of Congress.

Par. (5)(A)(ii). Pub. L. 109-239, § 6, substituted “6 months” for “12 months” and “of the State in which the child has been placed, or of a private agency under contract with either such State” for “or of the State in which the child has been placed”.

Par. (5)(C). Pub. L. 109-288 inserted “(i)” after “with respect to each such child,” substituted “(ii) procedural safeguards shall” for “and procedural safeguards shall also”, and added cl. (iii) at end.

Pub. L. 109-239, § 12, inserted “, in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options,” after “living arrangement” and “the hearing shall determine” after “described in subparagraph (A)(ii).”

Par. (5)(D). Pub. L. 109-239, § 7(2), inserted “a copy of the record is” before “supplied to the foster parent” and “, and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law” before semicolon at end.

Par. (5)(G). Pub. L. 109-239, § 8(a), substituted “a right” for “an opportunity”, “proceeding” for “review or hearing” in two places, and “and right” for “and opportunity”.

1997—Par. (1). Pub. L. 105-89, § 107(1)(A), (B), struck out “the case plan must also include” before “a written description” in concluding provisions and redesignated those provisions as subpar. (D) of par. (1).

Par. (1)(A). Pub. L. 105-89, § 102(2)(A)(i), inserted “safety and” before “appropriateness of the placement”.

Par. (1)(B). Pub. L. 105-89, § 102(2)(A)(ii), inserted “safe and” after “child receives” and “safe” after “return of the child to his own”.

Par. (1)(D). Pub. L. 105-89, § 107(1)(B), redesignated concluding provisions of par. (1) as subpar. (D) of par. (1) and realigned margins.

Par. (1)(E). Pub. L. 105-89, § 107(2), added subpar. (E).

Par. (5)(A). Pub. L. 105-89, § 102(2)(B)(i), inserted “a safe setting that is” after “placement in” in introductory provisions.

Par. (5)(B). Pub. L. 105-89, § 102(2)(B)(ii), inserted “the safety of the child,” after “determine” and “and safely maintained in” before “the home or placed for adoption”.

Par. (5)(C). Pub. L. 105-89, § 302, substituted “permanency hearing” for “dispositional hearing” and “no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F))” for “no later than eighteen months after the original placement”, and which directed the substitution of “permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or (in cases where the State agency has documented to the State court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement” for “future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child’s special needs or circumstances) be continued in foster care on a permanent or long term basis)”, was executed by making the substitution for text which contained the words “long-term” rather than “long term” to reflect the probable intent of Congress.

Par. (5)(E). Pub. L. 105-89, § 103(a), added subpar. (E).

Par. (5)(F). Pub. L. 105-89, § 103(b), added subpar. (F).

Par. (5)(G). Pub. L. 105-89, § 104, added subpar. (G).

Par. (7). Pub. L. 105-89, § 101(b), added par. (7).

1994—Par. (5)(A). Pub. L. 103-432, § 209(a), inserted “which—” after “needs of the child,” and added cls. (i) and (ii).

Pub. L. 103-432, § 206(a), inserted “and most appropriate” after “(most family like)”.

Par. (5)(C). Pub. L. 103-432, § 209(b), inserted “and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be ap-

propriate and in the best interests of the child,” after “permanent or long-term basis”).

Pub. L. 103-432, §206(b), substituted “(and not less frequently than every 12 months)” for “(and periodically)”.

Par. (5)(D). Pub. L. 103-432, §265(c), realigned margins. 1989—Par. (1). Pub. L. 101-239, §8007(a), inserted “(A)” before “A description”, substituted “section 672(a)(1) of this title. (B) A plan” for “section 672(a)(1) of this title; and a plan”, realigned margins of subpars. (A) and (B), added subpar. (C), and set the last sentence flush with the left margin of par. (1).

Par. (5)(D). Pub. L. 101-239, §8007(b), added subpar. (D).

1988—Par. (5)(C). Pub. L. 100-647 inserted “and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living” after “long-term basis”).

1987—Par. (4). Pub. L. 100-203 designated existing provisions as subpar. (A) and added subpar. (B).

1986—Par. (1). Pub. L. 99-272, §12307(b), inserted at end “Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.”

Par. (3). Pub. L. 99-514 added cl. (A) and struck out former cl. (A) which read as follows: “specifies the amounts of any adoption assistance payments and any other services and assistance which are to be provided as part of such agreement, and”.

Pub. L. 99-272, §12305(b)(2), substituted in cl. (A) “any adoption assistance payments and any other services and assistance” for “the adoption assistance payments and any additional services and assistance”.

1980—Par. (1). Pub. L. 96-272, §102(a)(4), inserted reference to voluntary placement agreements.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 effective Oct. 1, 2010, see section 2955(d) of Pub. L. 111-148, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 201(a) of Pub. L. 110-351 effective Oct. 1, 2010, see section 201(d) of Pub. L. 110-351, set out as a note under section 672 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

Amendment by Pub. L. 109-239 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether imple-

menting regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 14 of Pub. L. 109-239, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 206(c) of Pub. L. 103-432 provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1995.”

Section 209(d) of Pub. L. 103-432 provided that: “The amendments made by this section [amending this section and section 679 of this title] shall be effective with respect to fiscal years beginning on or after October 1, 1995.”

Amendment by section 265(c) of Pub. L. 103-432 effective as if included in the provision of Pub. L. 101-239 to which the amendment relates, at the time the provision became law, see section 265(d) of Pub. L. 103-432, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 8007(c) of Pub. L. 101-239 provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on April 1, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective Oct. 1, 1988, see section 8104(g)(1) of Pub. L. 100-647, set out as a note under section 677 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Apr. 1, 1988, see section 9133(c) of Pub. L. 100-203, set out as a note under section 672 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable only with respect to expenditures made after Dec. 31, 1986, see section 1711(d) of Pub. L. 99-514, set out as a note under section 670 of this title.

Amendment by section 12305(b)(2) of Pub. L. 99-272 applicable to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after Apr. 7, 1986, see section 12305(c) of Pub. L. 99-272, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 101(a)(4)(A) of Pub. L. 96-272 provided that: “Clause (B) of the first sentence of section 475(3) of the Social Security Act [par. (3)(B) of this section] (as added by subsection (a) of this section) shall be effective with respect to adoption assistance agreements entered into on or after October 1, 1983.”

Amendment by section 102(a)(4) of Pub. L. 96-272 effective only with respect to expenditures made after Sept. 30, 1979, see section 102(c) of Pub. L. 96-272, as amended, set out as a note under section 672 of this title.

CONSTRUCTION

Section 103(d) of Pub. L. 105-89 provided that: “Nothing in this section [amending this section and enacting provisions set out as a note below] or in part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.), as amended by this Act, shall be construed as precluding State courts or State agencies from initiating the termination of parental rights for reasons other than, or for timelines earlier than, those specified in part E of title IV of such Act, when such actions are determined to be in the best interests of the child, including cases where the child has experienced multiple foster care placements of varying durations.”

TRANSITION RULES; NEW AND CURRENT FOSTER
CHILDREN

Section 103(c) of Pub. L. 105-89 provided that:

“(1) NEW FOSTER CHILDREN.—In the case of a child who enters foster care (within the meaning of section 475(5)(F) of the Social Security Act [par. (5)(F) of this section]) under the responsibility of a State after the date of the enactment of this Act [Nov. 19, 1997]—

“(A) if the State comes into compliance with the amendments made by subsection (a) of this section [amending this section] before the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with section 475(5)(E) of the Social Security Act [par. (5)(E) of this section] with respect to the child when the child has been in such foster care for 15 of the most recent 22 months; and

“(B) if the State comes into such compliance after the child has been in such foster care for 15 of the most recent 22 months, the State shall comply with such section 475(5)(E) with respect to the child not later than 3 months after the end of the first regular session of the State legislature that begins after such date of enactment.

“(2) CURRENT FOSTER CHILDREN.—In the case of children in foster care under the responsibility of the State on the date of the enactment of this Act, the State shall—

“(A) not later than 6 months after the end of the first regular session of the State legislature that begins after such date of enactment, comply with section 475(5)(E) of the Social Security Act with respect to not less than $\frac{1}{3}$ of such children as the State shall select, giving priority to children for whom the permanency plan (within the meaning of part E of title IV of the Social Security Act [this part]) is adoption and children who have been in foster care for the greatest length of time;

“(B) not later than 12 months after the end of such first regular session, comply with such section 475(5)(E) with respect to not less than $\frac{2}{3}$ of such children as the State shall select; and

“(C) not later than 18 months after the end of such first regular session, comply with such section 475(5)(E) with respect to all of such children.

“(3) TREATMENT OF 2-YEAR LEGISLATIVE SESSIONS.—For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

“(4) REQUIREMENTS TREATED AS STATE PLAN REQUIREMENTS.—For purposes of part E of title IV of the Social Security Act, the requirements of this subsection shall be treated as State plan requirements imposed by section 471(a) of such Act [section 671(a) of this title].”

§ 676. Administration

(a) Technical assistance to States

The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this subchapter and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

(b) Data collection and evaluation

Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

(c) Technical assistance and implementation services for tribal programs

(1) Authority

The Secretary shall provide technical assistance and implementation services that are dedicated to improving services and permanency outcomes for Indian children and their families through the provision of assistance described in paragraph (2).

(2) Assistance provided

(A) In general

The technical assistance and implementation services shall be to—

(i) provide information, advice, educational materials, and technical assistance to Indian tribes and tribal organizations with respect to the types of services, administrative functions, data collection, program management, and reporting that are required under State plans under part B and this part;

(ii) assist and provide technical assistance to—

(I) Indian tribes, tribal organizations, and tribal consortia seeking to operate a program under part B or under this part through direct application to the Secretary under section 679c of this title; and

(II) Indian tribes, tribal organizations, tribal consortia, and States seeking to develop cooperative agreements to provide for payments under this part or satisfy the requirements of section 622(b)(9), 671(a)(32), or 677(b)(3)(G) of this title; and

(iii) subject to subparagraph (B), make one-time grants, to tribes, tribal organizations, or tribal consortia that are seeking to develop, and intend, not later than 24 months after receiving such a grant to submit to the Secretary a plan under section 671 of this title to implement a program under this part as authorized by section 679c of this title, that shall—

(I) not exceed \$300,000; and

(II) be used for the cost of developing a plan under section 671 of this title to carry out a program under section 679c of this title, including costs related to development of necessary data collection systems, a cost allocation plan, agency and tribal court procedures necessary to meet the case review system requirements under section 675(5) of this title, or any other costs attributable to meeting any other requirement necessary for approval of such a plan under this part.

(B) Grant condition

(i) In general

As a condition of being paid a grant under subparagraph (A)(iii), a tribe, tribal organization, or tribal consortium shall agree to repay the total amount of the grant awarded if the tribe, tribal organization, or tribal consortium fails to submit to the Secretary a plan under section 671 of this title to carry out a program under section 679c of this title by the end of the

24-month period described in that subparagraph.

(ii) Exception

The Secretary shall waive the requirement to repay a grant imposed by clause (i) if the Secretary determines that a tribe's, tribal organization's, or tribal consortium's failure to submit a plan within such period was the result of circumstances beyond the control of the tribe, tribal organization, or tribal consortium.

(C) Implementation authority

The Secretary may provide the technical assistance and implementation services described in subparagraph (A) either directly or through a grant or contract with public or private organizations knowledgeable and experienced in the field of Indian tribal affairs and child welfare.

(3) Appropriation

There is appropriated to the Secretary, out of any money in the Treasury of the United States not otherwise appropriated, \$3,000,000 for fiscal year 2009 and each fiscal year thereafter to carry out this subsection.

(Aug. 14, 1935, ch. 531, title IV, §476, as added Pub. L. 96-272, title I, §101(a)(1), June 17, 1980, 94 Stat. 511; amended Pub. L. 110-351, title III, §302, Oct. 7, 2008, 122 Stat. 3972.)

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-351 added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after such date, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

§ 677. John H. Chafee Foster Care Independence Program

(a) Purpose

The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—

(1) to identify children who are likely to remain in foster care until 18 years of age and to help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

(2) to help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment;

(3) to help children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions;

(4) to provide personal and emotional support to children aging out of foster care,

through mentors and the promotion of interactions with dedicated adults;

(5) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood;

(6) to make available vouchers for education and training, including postsecondary training and education, to youths who have aged out of foster care; and

(7) to provide the services referred to in this subsection to children who, after attaining 16 years of age, have left foster care for kinship guardianship or adoption.

(b) Applications

(1) In general

A State may apply for funds from its allotment under subsection (c) of this section for a period of five consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

(2) State plan

A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

(A) Design and deliver programs to achieve the purposes of this section.

(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

(D) Involve the public and private sectors in helping adolescents in foster care achieve independence.

(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

(3) Certifications

The certifications required by this paragraph with respect to a plan are the following:

(A) A certification by the chief executive officer of the State that the State will provide assistance and services to children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.

(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) of this section for a fiscal year will be expended for room or board for children who have left foster care because they have attained 18

years of age, and who have not attained 21 years of age.

(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) of this section will be expended for room or board for any child who has not attained 18 years of age.

(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues confronting adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.

(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) of this section with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5714-1 et seq.]), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.

(H) A certification by the chief executive officer of the State that the State will ensure that adolescents participating in the

program under this section participate directly in designing their own program activities that prepare them for independent living and that the adolescents accept personal responsibility for living up to their part of the program.

(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

(J) A certification by the chief executive officer of the State that the State educational and training voucher program under this section is in compliance with the conditions specified in subsection (i) of this section, including a statement describing methods the State will use—

(i) to ensure that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs does not exceed the limitation specified in subsection (i)(5) of this section; and

(ii) to avoid duplication of benefits under this and any other Federal or Federally assisted benefit program.

(K) A certification by the chief executive officer of the State that the State will ensure that an adolescent participating in the program under this section are¹ provided with education about the importance of designating another individual to make health care treatment decisions on behalf of the adolescent if the adolescent becomes unable to participate in such decisions and the adolescent does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, whether a health care power of attorney, health care proxy, or other similar document is recognized under State law, and how to execute such a document if the adolescent wants to do so.

(4) Approval

The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

(B) the Secretary finds that the application contains the material required by paragraph (1).

(5) Authority to implement certain amendments; notification

A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) Availability

The State shall make available to the public any application submitted by the State pursu-

¹ So in original. Probably should be "is".

ant to paragraph (1), and a brief summary of the plan contained in the application.

(c) Allotments to States

(1) General program allotment

From the amount specified in subsection (h)(1) of this section that remains after applying subsection (g)(2) of this section for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) of this section for the fiscal year the amount which bears the ratio to such remaining amount equal to the State foster care ratio, as adjusted in accordance with paragraph (2).

(2) Hold harmless provision

(A) In general

The Secretary shall allot to each State whose allotment for a fiscal year under paragraph (1) is less than the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998, an additional amount equal to the difference between such allotment and such greater amount.

(B) Ratable reduction of certain allotments

In the case of a State not described in subparagraph (A) of this paragraph for a fiscal year, the Secretary shall reduce the amount allotted to the State for the fiscal year under paragraph (1) by the amount that bears the same ratio to the sum of the differences determined under subparagraph (A) of this paragraph for the fiscal year as the excess of the amount so allotted over the greater of \$500,000 or the amount payable to the State under this section for fiscal year 1998 bears to the sum of such excess amounts determined for all such States.

(3) Voucher program allotment

From the amount, if any, appropriated pursuant to subsection (h)(2) of this section for a fiscal year, the Secretary may allot to each State with an application approved under subsection (b) of this section for the fiscal year an amount equal to the State foster care ratio multiplied by the amount so specified.

(4) State foster care ratio

In this subsection, the term "State foster care ratio" means the ratio of the number of children in foster care under a program of the State in the most recent fiscal year for which the information is available to the total number of children in foster care in all States for the most recent fiscal year.

(d) Use of funds

(1) In general

A State to which an amount is paid from its allotment under subsection (c) of this section may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) No supplantation of other funds available for same general purposes

The amounts paid to a State from its allotment under subsection (c) of this section shall

be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(3) Two-year availability of funds

Payments made to a State under this section for a fiscal year shall be expended by the State in the fiscal year or in the succeeding fiscal year.

(4) Reallocation of unused funds

If a State does not apply for funds under this section for a fiscal year within such time as may be provided by the Secretary, the funds to which the State would be entitled for the fiscal year shall be reallocated to 1 or more other States on the basis of their relative need for additional payments under this section, as determined by the Secretary.

(e) Penalties

(1) Use of grant in violation of this part

If the Secretary is made aware, by an audit conducted under chapter 75 of title 31 or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) of this section has been operated in a manner that is inconsistent with, or not disclosed in the State application approved under subsection (b) of this section, the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) Failure to comply with data reporting requirement

The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) of this section in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) Penalties based on degree of noncompliance

The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

(f) Data collection and performance measurement

(1) In general

The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers, shall—

(A) develop outcome measures (including measures of educational attainment, high school diploma, employment, avoidance of dependency, homelessness, nonmarital childbirth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track—

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the second fiscal year beginning after December 14, 1999.

(2) Report to the Congress

Within 12 months after December 14, 1999, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1) and a proposal to impose penalties consistent with paragraph (e)(2) on States that do not report data.

(g) Evaluations

(1) In general

The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) Funding of evaluations

The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) of this section for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

(h) Limitations on authorization of appropriations

To carry out this section and for payments to States under section 674(a)(4) of this title, there are authorized to be appropriated to the Secretary for each fiscal year—

(1) \$140,000,000, which shall be available for all purposes under this section; and

(2) an additional \$60,000,000, which are authorized to be available for payments to States for education and training vouchers for youths who age out of foster care, to assist the youths to develop skills necessary to lead independent and productive lives.

(i) Educational and training vouchers

The following conditions shall apply to a State educational and training voucher program under this section:

(1) Vouchers under the program may be available to youths otherwise eligible for services under the State program under this section.

(2) For purposes of the voucher program, youths who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care may be considered to be youths otherwise eligible for services under the State program under this section.

(3) The State may allow youths participating in the voucher program on the date they attain 21 years of age to remain eligible until they attain 23 years of age, as long as they are enrolled in a postsecondary education or training program and are making satisfactory progress toward completion of that program.

(4) The voucher or vouchers provided for an individual under this section—

(A) may be available for the cost of attendance at an institution of higher education, as defined in section 1002 of title 20; and

(B) shall not exceed the lesser of \$5,000 per year or the total cost of attendance, as defined in section 10877 of title 20.

(5) The amount of a voucher under this section may be disregarded for purposes of determining the recipient's eligibility for, or the amount of, any other Federal or Federally supported assistance, except that the total amount of educational assistance to a youth under this section and under other Federal and Federally supported programs shall not exceed the total cost of attendance, as defined in section 10877 of title 20, and except that the State agency shall take appropriate steps to prevent duplication of benefits under this and other Federal or Federally supported programs.

(6) The program is coordinated with other appropriate education and training programs.

(j) Authority for an Indian tribe, tribal organization, or tribal consortium to receive an allotment

(1) In general

An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 679c of this title, or which is receiving funding to provide foster care under this part pursuant to a cooperative agreement or contract with a State, may apply for an allotment out of any funds authorized by paragraph (1) or (2) (or both) of subsection (h) of this section.

(2) Application

A tribe, organization, or consortium desiring an allotment under paragraph (1) of this subsection shall submit an application to the Secretary to directly receive such allotment that includes a plan which—

(A) satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate;

(B) contains a description of the tribe's, organization's, or consortium's consultation process regarding the programs to be carried out under the plan with each State for which a portion of an allotment under subsection (c) would be redirected to the tribe, organization, or consortium; and

(C) contains an explanation of the results of such consultation, particularly with respect to—

(i) determining the eligibility for benefits and services of Indian children to be

served under the programs to be carried out under the plan; and

(ii) the process for consulting with the State in order to ensure the continuity of benefits and services for such children who will transition from receiving benefits and services under programs carried out under a State plan under subsection (b)(2) to receiving benefits and services under programs carried out under a plan under this subsection.

(3) Payments

The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 674(a)(4) of this title (and, where requested, and if funds are appropriated, section 674(e) of this title) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

(4) Allotment

From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, organization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under subsection (c) for the State in which the Indian tribe, tribal organization, or tribal consortium is located.

(5) Tribal foster care ratio

For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

(B) the sum of—

(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia in the State (either directly or under supervision of the State) that have a plan approved under this subsection.

(Aug. 14, 1935, ch. 531, title IV, §477, as added Pub. L. 99-272, title XII, §12307(a), Apr. 7, 1986,

100 Stat. 294; amended Pub. L. 100-647, title VIII, §8104(a)-(d), (f), Nov. 10, 1988, 102 Stat. 3796, 3797; Pub. L. 101-239, title VIII, §8002(a), (b), Dec. 19, 1989, 103 Stat. 2452; Pub. L. 101-508, title V, §5073(a), Nov. 5, 1990, 104 Stat. 1388-233; Pub. L. 103-66, title XIII, §13714(a), Aug. 10, 1993, 107 Stat. 657; Pub. L. 105-89, title III, §304, Nov. 19, 1997, 111 Stat. 2130; Pub. L. 106-169, title I, §101(b), Dec. 14, 1999, 113 Stat. 1824; Pub. L. 107-133, title II, §§201(a)-(e), 202(a), Jan. 17, 2002, 115 Stat. 2422, 2423, 2425; Pub. L. 110-351, title I, §101(e), title III, §301(b), (c)(1)(B), Oct. 7, 2008, 122 Stat. 3953, 3967, 3969; Pub. L. 111-148, title II, §2955(b), Mar. 23, 2010, 124 Stat. 352.)

REFERENCES IN TEXT

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (b)(3)(F), is Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109. Part B of title III of the Act is classified generally to Part B (§5714-1 et seq.) of subchapter III of chapter 72 of this title. For complete classification of this Act to the Code, see Short Title note under section 5601 of this title and Tables.

CODIFICATION

December 14, 1999, referred to in subsec. (f), was in the original “the date of the enactment of this section” which was translated as meaning the date of enactment of Pub. L. 106-169, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2010—Subsec. (b)(3)(K). Pub. L. 111-148 added subpar. (K).

2008—Subsec. (a)(7). Pub. L. 110-351, §101(e)(1), added par. (7).

Subsec. (b)(3)(G). Pub. L. 110-351, §301(c)(1)(B), substituted “tribes; that” for “tribes; and that” and inserted “; and that the State will negotiate in good faith with any Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year and that requests to develop an agreement with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the tribe, organization, or consortium and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight” before period at end.

Subsec. (i)(2). Pub. L. 110-351, §101(e)(2), substituted “who, after attaining 16 years of age, are adopted from, or enter kinship guardianship from, foster care” for “adopted from foster care after attaining age 16”.

Subsec. (j). Pub. L. 110-351, §301(b), added subsec. (j).

2002—Subsec. (a)(6). Pub. L. 107-133, §201(a), added par. (6).

Subsec. (b)(3)(J). Pub. L. 107-133, §201(c), added subpar. (J).

Subsec. (c)(1). Pub. L. 107-133, §201(e)(1), in heading substituted “General program allotment” for “In general” and in text substituted “From the amount specified in subsection (h)(1)” for “From the amount specified in subsection (h)”, “which bears the ratio” for “which bears the same ratio”, and “equal to the State foster care ratio, as adjusted in accordance with paragraph (2).” for “as the number of children in foster care under a program of the State in the most recent fiscal year for which such information is available bears to the total number of children in foster care in all States for such most recent fiscal year, as adjusted in accordance with paragraph (2).”

Subsec. (c)(3), (4). Pub. L. 107-133, §201(e)(2), added pars. (3) and (4).

Subsec. (d)(4). Pub. L. 107-133, §202(a), added par. (4).

Subsec. (h). Pub. L. 107-133, §201(d), substituted “there are authorized to be appropriated to the Sec-

retary for each fiscal year—” and pars. (1) and (2) for “there are authorized to be appropriated to the Secretary \$140,000,000 for each fiscal year.”

Subsec. (i). Pub. L. 107-133, §201(b), added subsec. (i). 1999—Pub. L. 106-169 amended section generally, substituting present provisions for provisions which had authorized payments to States and localities for establishment of programs designed to assist children who have attained age 16 in making transition from foster care to independent living, and set forth provisions relating to administration of programs, assurances, types of programs, amounts of entitlement, and provisions requiring annual report and promulgation of regulations.

1997—Subsec. (a)(2)(A). Pub. L. 105-89 inserted before comma at end “(including children with respect to whom such payments are no longer being made because the child has accumulated assets, not to exceed \$5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part)”.

1993—Subsec. (a)(1). Pub. L. 103-66, §13714(a)(1), struck out at end “Such payments shall be made only for the fiscal years 1987 through 1992.”

Subsec. (c). Pub. L. 103-66, §13714(a)(2), substituted “any succeeding fiscal year” for “any of the fiscal years 1988 through 1992”.

Subsec. (e)(1)(A). Pub. L. 103-66, §13714(a)(3), substituted “fiscal year 1987 and any succeeding fiscal year” for “each of the fiscal years 1987 through 1992”.

Subsec. (e)(1)(B). Pub. L. 103-66, §13714(a)(4), substituted “fiscal year 1991 and any succeeding fiscal year” for “fiscal years 1991 and 1992”.

Subsec. (e)(1)(C)(ii)(II). Pub. L. 103-66, §13714(a)(5), substituted “any succeeding fiscal year” for “fiscal year 1992”.

1990—Subsec. (a)(2)(C). Pub. L. 101-508 inserted “who has not attained age 21” after “also include any child” and struck out before semicolon “, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care”.

1989—Subsec. (a)(1). Pub. L. 101-239, §8002(a)(1), substituted “through 1992” for “, 1988, and 1989”.

Subsec. (c). Pub. L. 101-239, §8002(a)(2), substituted “any of the fiscal years 1988 through 1992” for “the fiscal year 1988 or 1989”.

Subsec. (e)(1). Pub. L. 101-239, §8002(b)(1), (2), (4), (5), designated existing provisions as subpar. (A), substituted “The basic amount” for “The amount” and “the basic ceiling for such fiscal year” for “\$45,000,000”, and added subpars. (B) and (C).

Pub. L. 101-239, §8002(b)(3), which directed amendment of subpar. (A) by substituting “1989, 1990, 1991, and 1992” for “and 1989” could not be executed because the words “and 1989” did not appear after execution of amendment by Pub. L. 101-239, §8002(a)(1), see below.

Pub. L. 101-239, §8002(a)(1), substituted “through 1992” for “, 1988, and 1989”.

1988—Subsec. (a). Pub. L. 100-647, §8104(a)(1), substituted “1987, 1988, and 1989” for “1987 and 1988”.

Subsec. (a)(1). Pub. L. 100-647, §8104(c), designated existing provisions as par. (1), substituted “children described in paragraph (2) who have attained age 16” for “children, with respect to whom foster care maintenance payments are being made by the State under this part and who have attained age 16,” and added par. (2).

Subsec. (a)(2)(C). Pub. L. 100-647, §8104(d), added subpar. (C).

Subsec. (c). Pub. L. 100-647, §8104(a)(2), substituted “for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to February 1 of such fiscal year” for “for fiscal year 1988, such description and assurances must be submitted prior to January 1, 1988”.

Subsec. (e)(1). Pub. L. 100-647, §8104(a)(1), substituted “1987, 1988, and 1989” for “1987 and 1988”.

Subsec. (e)(3). Pub. L. 100-647, §8104(f), inserted at end “Amounts payable under this section may not be used for the provision of room or board.”

Subsec. (f). Pub. L. 100-647, §8104(b), inserted at end “Notwithstanding paragraph (3), payments made to a

State under this section for the fiscal year 1987 and unobligated may be expended by such State in the fiscal year 1989.”

Subsec. (g)(1). Pub. L. 100-647, §8104(a)(3), (4), substituted “Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report on the programs carried out during such fiscal year” for “Not later than March 1, 1988, each State shall submit to the Secretary a report on the programs carried out”.

Subsec. (g)(2). Pub. L. 100-647, §8104(a)(5), (6), substituted:

“(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

“(B) Not later than March 1, 1989,” for “Not later than July 1, 1988,” and substituted “fiscal years 1987 and 1988” for “fiscal year 1987” in subpar. (B).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-148 effective Oct. 1, 2010, see section 2955(d) of Pub. L. 111-148, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 301(b), (c)(1)(B) of Pub. L. 110-351 effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as a note under section 671 of this title.

Amendment by Pub. L. 110-351 effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of amendment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as a note under section 671 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-133 effective Jan. 17, 2002, with delay permitted if State legislation is required, see section 301 of Pub. L. 107-133, set out as a note under section 629 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-89 effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13714(b) of Pub. L. 103-66 provided that: “The amendments made by subsection (a) [amending this section] shall apply to activities engaged in, on, or after October 1, 1992.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5073(b) of Pub. L. 101-508 provided that: “The amendments made by subsection (a) [amending this section] shall apply to payments made under part E of title IV of the Social Security Act [part E of this subchapter] for fiscal years beginning in or after fiscal year 1991.”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective Oct. 1, 1989, see section 8002(e) of Pub. L. 101-239, set out as a note under section 674 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 8104(g) of Pub. L. 100-647 provided that:

“(1) The amendments made by subsections (a), (b), and (e) [amending this section and section 675 of this title] shall take effect on October 1, 1988.

“(2) The amendments made by subsections (c), (d), and (f) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].”

REGULATIONS

Pub. L. 106-169, title I, §101(d), Dec. 14, 1999, 113 Stat. 1828, provided that: "Not later than 12 months after the date of the enactment of this Act [Dec. 14, 1999], the Secretary of Health and Human Services shall issue such regulations as may be necessary to carry out the amendments made by this section [amending this section and section 674 of this title]."

CONSTRUCTION OF 2008 AMENDMENT

For construction of amendment by section 301(b), (c)(1)(B) of Pub. L. 110-351, see section 301(d) of Pub. L. 110-351, set out as a note under section 671 of this title.

TEMPORARY EXTENSION OF AVAILABILITY OF
INDEPENDENT LIVING FUNDS

Pub. L. 107-133, title II, §202(b), Jan. 17, 2002, 115 Stat. 2425, provided that: "Notwithstanding section 477(d)(3) of the Social Security Act [subsec. (d)(3) of this section], payments made to a State under section 477 of such Act for fiscal year 2000 shall remain available for expenditure by the State through fiscal year 2002."

FINDINGS

Pub. L. 106-169, title I, §101(a), Dec. 14, 1999, 113 Stat. 1823, provided that: "The Congress finds the following:

"(1) States are required to make reasonable efforts to find adoptive families for all children, including older children, for whom reunification with their biological family is not in the best interests of the child. However, some older children will continue to live in foster care. These children should be enrolled in an Independent Living program designed and conducted by State and local government to help prepare them for employment, postsecondary education, and successful management of adult responsibilities.

"(2) Older children who continue to be in foster care as adolescents may become eligible for Independent Living programs. These Independent Living programs are not an alternative to adoption for these children. Enrollment in Independent Living programs can occur concurrent with continued efforts to locate and achieve placement in adoptive families for older children in foster care.

"(3) About 20,000 adolescents leave the Nation's foster care system each year because they have reached 18 years of age and are expected to support themselves.

"(4) Congress has received extensive information that adolescents leaving foster care have significant difficulty making a successful transition to adulthood; this information shows that children aging out of foster care show high rates of homelessness, non-marital childbearing, poverty, and delinquent or criminal behavior; they are also frequently the target of crime and physical assaults.

"(5) The Nation's State and local governments, with financial support from the Federal Government, should offer an extensive program of education, training, employment, and financial support for young adults leaving foster care, with participation in such program beginning several years before high school graduation and continuing, as needed, until the young adults emancipated from foster care establish independence or reach 21 years of age."

STUDY AND REPORT EVALUATING EFFECTIVENESS OF
PROGRAMS

Section 8002(d) of Pub. L. 101-239 provided that:

"(1) **STUDY.**—The Secretary of Health and Human Services shall study the programs authorized under section 477 of the Social Security Act [this section] for the purposes of evaluating the effectiveness of the programs. The study shall include a comparison of outcomes of children who participated in the programs and a comparable group of children who did not participate in the programs.

"(2) **REPORT.**—Upon completion of the study, the Secretary shall issue a report to the Committee on Fi-

nance of the Senate and the Committee on Ways and Means of the House of Representatives."

§ 678. Rule of construction

Nothing in this part shall be construed as precluding State courts from exercising their discretion to protect the health and safety of children in individual cases, including cases other than those described in section 671(a)(15)(D) of this title.

(Aug. 14, 1935, ch. 531, title IV, §478, as added Pub. L. 105-89, title I, §101(d), Nov. 19, 1997, 111 Stat. 2117.)

PRIOR PROVISIONS

A prior section 678, act Aug. 14, 1935, ch. 531, title IV, §478, as added Oct. 22, 1986, Pub. L. 99-514, title XVIII, §1883(b)(10)(A), 100 Stat. 2917, excluded from AFDC unit child for whom foster care maintenance payments are made, prior to repeal by Pub. L. 101-508, title V, §5052(b), (c), Nov. 5, 1990, 104 Stat. 1388-228, applicable with respect to benefits for months beginning on or after the first day of the sixth calendar month following November 1990.

EFFECTIVE DATE

Section effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105-89, set out as an Effective Date of 1997 Amendments note under section 622 of this title.

§ 679. Collection of data relating to adoption and
foster care(a) Advisory Committee on Adoption and Foster
Care Information

(1) Not later than 90 days after October 21, 1986, the Secretary shall establish an Advisory Committee on Adoption and Foster Care Information (in this section referred to as the "Advisory Committee") to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

(2) The study required by paragraph (1) shall—

(A) identify the types of data necessary to—

(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

(ii) develop appropriate national policies with respect to adoption and foster care;

(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and

(D) evaluate the financial and administrative impact of implementing each such method.

(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to the various methods of establishing, administering, and financing a system for the collec-

tion of data with respect to adoption and foster care in the United States.

(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

(B) The membership of the Advisory Committee shall include representatives of—

(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

(v) Federal agencies responsible for the collection of health and social statistics, and

(vi) organizations and agencies involved with privately arranged or international adoptions.

(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

(b) Report to Congress; regulations

(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that—

(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

(ii) evaluates the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies, and

(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

(B) The report required by subparagraph (A) shall—

(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of—

(A) the system proposed under paragraph (1)(A)(i), or

(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

(c) Data collection system

Any data collection system developed and implemented under this section shall—

(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

(3) provide comprehensive national information with respect to—

(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,

(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),

(C) the number and characteristics of—

(i) children placed in or removed from foster care,

(ii) children adopted or with respect to whom adoptions have been terminated, and

(iii) children placed in foster care outside the State which has placement and care responsibility, and

(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

(Aug. 14, 1935, ch. 531, title IV, §479, as added Pub. L. 99-509, title IX, §9443, Oct. 21, 1986, 100 Stat. 2073; amended Pub. L. 103-432, title II, §209(c), Oct. 31, 1994, 108 Stat. 4459.)

AMENDMENTS

1994—Subsec. (c)(3)(C)(iii). Pub. L. 103-432 added cl. (iii).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-432 effective with respect to fiscal years beginning on or after Oct. 1, 1995, see section 209(d) of Pub. L. 103-432, set out as a note under section 675 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 679a. National Adoption Information Clearinghouse

The Secretary of Health and Human Services shall establish, either directly or by grant or contract, a National Adoption Information Clearinghouse. The Clearinghouse shall—

(1) collect, compile, and maintain information obtained from available research, studies, and reports by public and private agencies, in-

stitutions, or individuals concerning all aspects of infant adoption and adoption of children with special needs;

(2) compile, maintain, and periodically revise directories of information concerning—

- (A) crisis pregnancy centers,
- (B) shelters and residences for pregnant women,
- (C) training programs on adoption,
- (D) educational programs on adoption,
- (E) licensed adoption agencies,
- (F) State laws relating to adoption,
- (G) intercountry adoption, and
- (H) any other information relating to adoption for pregnant women, infertile couples, adoptive parents, unmarried individuals who want to adopt children, individuals who have been adopted, birth parents who have placed a child for adoption, adoption agencies, social workers, counselors, or other individuals who work in the adoption field;

(3) disseminate the information compiled and maintained pursuant to paragraph (1) and the directories compiled and maintained pursuant to paragraph (2); and

(4) upon the establishment of an adoption and foster care data collection system pursuant to section 679 of this title, disseminate the data and information made available through that system.

(Pub. L. 99–509, title IX, §9442, Oct. 21, 1986, 100 Stat. 2073.)

CODIFICATION

Section was enacted as part of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 and also as part of the Omnibus Budget Reconciliation Act of 1986, and not as part of the Social Security Act which comprises this chapter.

§ 679b. Annual report

The Secretary, in consultation with Governors, State legislatures, State and local public officials responsible for administering child welfare programs, and child welfare advocates, shall—

(1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection and child welfare programs pursuant to part B of this subchapter and this part to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under this part;

(5) on May 1, 1999, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved; and

(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child;

(B) the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year as a percentage of the total number of the visits that would occur during the fiscal year if each child were so visited once every month while in such care; and

(C) the percentage of the visits that occurred in the residence of the child.

(Aug. 14, 1935, ch. 531, title IV, §479A, as added Pub. L. 105–89, title II, §203(a), Nov. 19, 1997, 111 Stat. 2126; amended Pub. L. 109–288, §7(c)(2), Sept. 28, 2006, 120 Stat. 1249; Pub. L. 112–34, title I, §106(d), Sept. 30, 2011, 125 Stat. 377.)

AMENDMENTS

2011—Par. (6)(B), (C), Pub. L. 112–34 added subpar. (B) and redesignated former subpar. (B) as (C).

2006—Par. (6). Pub. L. 109–288 added par. (6).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112–34 effective Oct. 1, 2011, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112–34, set out as a note under section 622 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–288 effective Oct. 1, 2006, and applicable to payments under this part and part B of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109–288, set out as a note under section 621 of this title.

EFFECTIVE DATE

Section effective Nov. 19, 1997, except as otherwise provided, with delay permitted if State legislation is required, see section 501 of Pub. L. 105–89, set out as an Effective Date of 1997 Amendments note under section 622 of this title.

DEVELOPMENT OF PERFORMANCE-BASED INCENTIVE SYSTEM

Section 203(b) of Pub. L. 105–89 provided that: “The Secretary of Health and Human Services, in consultation with State and local public officials responsible for administering child welfare programs and child welfare advocates, shall study, develop, and recommend to Congress an incentive system to provide payments under parts B and E of title IV of the Social Security Act (42 U.S.C. 620 et seq., 670 et seq.) to any State based on the State’s performance under such a system. Such a sys-

tem shall, to the extent the Secretary determines feasible and appropriate, be based on the annual report required by section 479A of the Social Security Act [this section] (as added by subsection (a) of this section) or on any proposed modifications of the annual report. Not later than 6 months after the date of the enactment of this Act [Nov. 19, 1997], the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a progress report on the feasibility, timetable, and consultation process for conducting such a study. Not later than 15 months after such date of enactment, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the final report on a performance-based incentive system. The report may include other recommendations for restructuring the program and payments under parts B and E of title IV of the Social Security Act."

§ 679c. Programs operated by Indian tribal organizations

(a) Definitions of Indian tribe; tribal organizations

In this section, the terms "Indian tribe" and "tribal organization" have the meanings given those terms in section 450b of title 25.

(b) Authority

Except as otherwise provided in this section, this part shall apply in the same manner as this part applies to a State to an Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part and has a plan approved by the Secretary under section 671 of this title in accordance with this section.

(c) Plan requirements

(1) In general

An Indian tribe, tribal organization, or tribal consortium that elects to operate a program under this part shall include with its plan submitted under section 671 of this title the following:

(A) Financial management

Evidence demonstrating that the tribe, organization, or consortium has not had any uncorrected significant or material audit exceptions under Federal grants or contracts that directly relate to the administration of social services for the 3-year period prior to the date on which the plan is submitted.

(B) Service areas and populations

For purposes of complying with section 671(a)(3) of this title, a description of the service area or areas and populations to be served under the plan and an assurance that the plan shall be in effect in all service area or areas and for all populations served by the tribe, organization, or consortium.

(C) Eligibility

(i) In general

Subject to clause (ii) of this subparagraph, an assurance that the plan will provide—

(I) foster care maintenance payments under section 672 of this title only on behalf of children who satisfy the eligibility requirements of section 672(a) of this title;

(II) adoption assistance payments under section 673 of this title pursuant to adoption assistance agreements only on behalf of children who satisfy the eligibility requirements for such payments under that section; and

(III) at the option of the tribe, organization, or consortium, kinship guardianship assistance payments in accordance with section 673(d) of this title only on behalf of children who meet the requirements of section 673(d)(3) of this title.

(ii) Satisfaction of foster care eligibility requirements

For purposes of determining whether a child whose placement and care are the responsibility of an Indian tribe, tribal organization, or tribal consortium with a plan approved under section 671 of this title in accordance with this section satisfies the requirements of section 672(a) of this title, the following shall apply:

(I) Use of affidavits, etc.

Only with respect to the first 12 months for which such plan is in effect, the requirement in paragraph (1) of section 672(a) of this title shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the child judicial determinations required under that paragraph.

(II) AFDC eligibility requirement

The State plan approved under section 602 of this title (as in effect on July 16, 1996) of the State in which the child resides at the time of removal from the home shall apply to the determination of whether the child satisfies section 672(a)(3) of this title.

(D) Option to claim in-kind expenditures from third-party sources for non-Federal share of administrative and training costs during initial implementation period

Only for fiscal year quarters beginning after September 30, 2009, and before October 1, 2014, a list of the in-kind expenditures (which shall be fairly evaluated, and may include plants, equipment, administration, or services) and the third-party sources of such expenditures that the tribe, organization, or consortium may claim as part of the non-Federal share of administrative or training expenditures attributable to such quarters for purposes of receiving payments under section 674(a)(3) of this title. The Secretary shall permit a tribe, organization, or consortium to claim in-kind expenditures from third party sources for such purposes during such quarters subject to the following:

(i) No effect on authority for tribes, organizations, or consortia to claim expenditures or indirect costs to the same extent as States

Nothing in this subparagraph shall be construed as preventing a tribe, organiza-

tion, or consortium from claiming any expenditures or indirect costs for purposes of receiving payments under section 674(a) of this title that a State with a plan approved under section 671(a) of this title could claim for such purposes.

(ii) Fiscal year 2010 or 2011

(I) Expenditures other than for training

With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (C), (D), or (E) of section 674(a)(3), not more than 25 percent of such amounts may consist of in-kind expenditures from third-party sources specified in the list required under this subparagraph to be submitted with the plan.

(II) Training expenditures

With respect to amounts expended during a fiscal year quarter beginning after September 30, 2009, and before October 1, 2011, for which the tribe, organization, or consortium is eligible for payments under subparagraph (A) or (B) of section 674(a)(3) of this title, not more than 12 percent of such amounts may consist of in-kind expenditures from third-party sources that are specified in such list and described in subclause (III).

(III) Sources described

For purposes of subclause (II), the sources described in this subclause are the following:

- (aa) A State or local government.
- (bb) An Indian tribe, tribal organization, or tribal consortium other than the tribe, organization, or consortium submitting the plan.
- (cc) A public institution of higher education.
- (dd) A Tribal College or University (as defined in section 1059c of title 20).
- (ee) A private charitable organization.

(iii) Fiscal year 2012, 2013, or 2014

(I) In general

Except as provided in subclause (II) of this clause and clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 674(a)(3) of this title, the only in-kind expenditures from third-party sources that may be claimed by the tribe, organization, or consortium for purposes of determining the non-Federal share of such expenditures (without regard to whether the expenditures are specified on the list required under this subparagraph to be submitted with the plan) are in-kind expenditures that are specified in regulations promulgated by the Secretary

under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 and are from an applicable third-party source specified in such regulations, and do not exceed the applicable percentage for claiming such in-kind expenditures specified in the regulations.

(II) Transition period for early approved tribes, organizations, or consortia

Subject to clause (v), if the tribe, organization, or consortium is an early approved tribe, organization, or consortium (as defined in subclause (III) of this clause), the Secretary shall not require the tribe, organization, or consortium to comply with such regulations before October 1, 2013. Until the earlier of the date such tribe, organization, or consortium comes into compliance with such regulations or October 1, 2013, the limitations on the claiming of in-kind expenditures from third-party sources under clause (ii) shall continue to apply to such tribe, organization, or consortium (without regard to fiscal limitation) for purposes of determining the non-Federal share of amounts expended by the tribe, organization, or consortium during any fiscal year quarter that begins after September 30, 2011, and before such date of compliance or October 1, 2013, whichever is earlier.

(III) Definition of early approved tribe, organization, or consortium

For purposes of subclause (II) of this clause, the term “early approved tribe, organization, or consortium” means an Indian tribe, tribal organization, or tribal consortium that had a plan approved under section 671 of this title in accordance with this section for any quarter of fiscal year 2010 or 2011.

(iv) Fiscal year 2015 and thereafter

Subject to clause (v) of this subparagraph, with respect to amounts expended during any fiscal year quarter beginning after September 30, 2014, for which the tribe, organization, or consortium is eligible for payments under any subparagraph of section 674(a)(3) of this title, in-kind expenditures from third-party sources may be claimed for purposes of determining the non-Federal share of expenditures under any subparagraph of such section 674(a)(3) only in accordance with the regulations promulgated by the Secretary under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008.

(v) Contingency rule

If, at the time expenditures are made for a fiscal year quarter beginning after September 30, 2011, and before October 1, 2014, for which a tribe, organization, or consortium may receive payments for¹ under sec-

¹ So in original.

tion 674(a)(3) of this title, no regulations required to be promulgated under section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008 are in effect, and no legislation has been enacted specifying otherwise—

(I) in the case of any quarter of fiscal year 2012, 2013, or 2014, the limitations on claiming in-kind expenditures from third-party sources under clause (ii) of this subparagraph shall apply (without regard to fiscal limitation) for purposes of determining the non-Federal share of such expenditures; and

(II) in the case of any quarter of fiscal year 2015 or any fiscal year thereafter, no tribe, organization, or consortium may claim in-kind expenditures from third-party sources for purposes of determining the non-Federal share of such expenditures if a State with a plan approved under section 671(a) of this title could not claim in-kind expenditures from third-party sources for such purposes.

(2) Clarification of tribal authority to establish standards for tribal foster family homes and tribal child care institutions

For purposes of complying with section 671(a)(10) of this title, an Indian tribe, tribal organization, or tribal consortium shall establish and maintain a tribal authority or authorities which shall be responsible for establishing and maintaining tribal standards for tribal foster family homes and tribal child care institutions.

(3) Consortium

The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 671 of this title that meets the requirements of this section.

(d) Determination of Federal medical assistance percentage for foster care maintenance and adoption assistance payments

(1) Per capita income

For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1), (2), and (5) of section 674(a) of this title, the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe, organization, or consortium is located.

(2) Consideration of other information

Before making a calculation under paragraph (1), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of

the Indian tribe, tribal organization, or tribal consortium.

(e) Nonapplication to cooperative agreements and contracts

Any cooperative agreement or contract entered into between an Indian tribe, a tribal organization, or a tribal consortium and a State for the administration or payment of funds under this part that is in effect as of October 7, 2008, shall remain in full force and effect, subject to the right of either party to the agreement or contract to revoke or modify the agreement or contract pursuant to the terms of the agreement or contract. Nothing in this section shall be construed as affecting the authority for an Indian tribe, a tribal organization, or a tribal consortium and a State to enter into a cooperative agreement or contract for the administration or payment of funds under this part.

(f) John H. Chafee Foster Care Independence Program

Except as provided in section 677(j) of this title, subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 677 of this title (or with respect to payments made under section 674(a)(4) of this title or grants made under section 674(e) of this title).

(g) Rule of construction

Nothing in this section shall be construed as affecting the application of section 672(h) of this title to a child on whose behalf payments are paid under section 672 of this title, or the application of section 673(b) of this title to a child on whose behalf payments are made under section 673 of this title pursuant to an adoption assistance agreement or a kinship guardianship assistance agreement, by an Indian tribe, tribal organization, or tribal consortium that elects to operate a foster care and adoption assistance program in accordance with this section.

(Aug. 14, 1935, ch. 531, title IV, § 479B, as added Pub. L. 110-351, title III, § 301(a)(1), Oct. 7, 2008, 122 Stat. 3962.)

REFERENCES IN TEXT

Section 301(e)(2) of the Fostering Connections to Success and Increasing Adoptions Act of 2008, referred to in subsec. (c)(1)(D)(iii)(I), (iv), (v), is section 301(e)(2) of Pub. L. 110-351, which is set out as a note under section 671 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 2009, without regard to whether implementing regulations have been promulgated, see section 301(f) of Pub. L. 110-351, set out as an Effective Date of 2008 Amendment note under section 671 of this title.

Enactment of this section effective Oct. 7, 2008, except as otherwise provided, and applicable to payments under this part and part B of this subchapter for quarters beginning on or after effective date of enactment, with delay permitted if State legislation is required to meet additional requirements, see section 601 of Pub. L. 110-351, set out as an Effective Date of 2008 Amendment note under section 671 of this title.

CONSTRUCTION

For construction of section, see section 301(d) of Pub. L. 110-351, set out as a Construction of 2008 Amendment note under section 671 of this title.

PART F—JOB OPPORTUNITIES AND BASIC SKILLS
TRAINING PROGRAM

**§§ 681 to 687. Repealed. Pub. L. 104-193, title I,
 § 108(e), Aug. 22, 1996, 110 Stat. 2167**

Section 681, act Aug. 14, 1935, ch. 531, title IV, § 481, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2360, related to purpose of part and definitions.

Section 682, act Aug. 14, 1935, ch. 531, title IV, § 482, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2360; amended Oct. 31, 1994, Pub. L. 103-432, title II, § 241(a), 108 Stat. 4466, related to establishment and operation of State programs.

Section 683, act Aug. 14, 1935, ch. 531, title IV, § 483, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2369, related to coordination of Federal and State programs.

Section 684, act Aug. 14, 1935, ch. 531, title IV, § 484, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2370, related to provisions generally applicable to provision of services.

Section 685, act Aug. 14, 1935, ch. 531, title IV, § 485, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2371, related to contract authority.

Section 686, act Aug. 14, 1935, ch. 531, title IV, § 486, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 201(b), 102 Stat. 2372, related to initial State evaluations.

Section 687, act Aug. 14, 1935, ch. 531, title IV, § 487, as added Oct. 13, 1988, Pub. L. 100-485, title II, § 203(b), 102 Stat. 2378; amended Oct. 31, 1994, Pub. L. 103-432, title II, § 242, 108 Stat. 4466, related to performance standards.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

SUBCHAPTER V—MATERNAL AND CHILD
HEALTH SERVICES BLOCK GRANT

AMENDMENTS

1981—Pub. L. 97-35, title XXI, § 2192(a), Aug. 13, 1981, 95 Stat. 818, substituted “MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT” for “MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN’S SERVICES” as the heading of title V of the Social Security Act [this subchapter] as part of the general revision of this subchapter.

**§ 701. Authorization of appropriations; purposes;
 definitions**

(a) To improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act [42 U.S.C. 201 et seq.] for the year 2000, there are authorized to be appropriated \$850,000,000 for fiscal year 2001 and each fiscal year thereafter—

(1) for the purpose of enabling each State—

(A) to provide and to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;

(B) to reduce infant mortality and the incidence of preventable diseases and handi-

capping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low income, at-risk pregnant women, and to promote the health of children by providing preventive and primary care services for low income children;

(C) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under subchapter XVI of this chapter, to the extent medical assistance for such services is not provided under subchapter XIX of this chapter; and

(D) to provide and to promote family-centered, community-based, coordinated care (including care coordination services, as defined in subsection (b)(3) of this section) for children with special health care needs and to facilitate the development of community-based systems of services for such children and their families;

(2) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development), for genetic disease testing, counseling, and information development and dissemination programs, for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age, and for the screening of newborns for sickle cell anemia, and other genetic disorders and follow-up services; and

(3) subject to section 702(b) of this title for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for developing and expanding the following—

(A) maternal and infant health home visiting programs in which case management services as defined in subparagraphs (A) and (B) of subsection (b)(4) of this section, health education services, and related social support services are provided in the home to pregnant women or families with an infant up to the age one by an appropriate health professional or by a qualified nonprofessional acting under the supervision of a health care professional,

(B) projects designed to increase the participation of obstetricians and pediatricians under the program under this subchapter and under state¹ plans approved under subchapter XIX of this chapter,

(C) integrated maternal and child health service delivery systems (of the type described in section 1320b-6² of this title and

¹ So in original. Probably should be capitalized.

² See References in Text note below.